

ALLEGATIONS OF ABUSE AGAINST STAFF POLICY (including procedures)

Version 3.0

Review by People Committee:

4th March 2015

Adopted by Governing Body:

24th February 2015

Next Full Review Due:

Spring 2020

Reviewer:

L. Coffill

Governor Link:

Governor with responsibility for safeguarding

ALLEGATIONS OF ABUSE AGAINST STAFF POLICY (including procedures)

East Barnet School, Chestnut Grove, East Barnet, EN4 8PU

1. Statement of Principle

- 1.1. All schools are under an absolute duty to promote and safeguard the welfare of children at the school, and to have regard to guidance issued by the secretary of state in so doing. This policy and procedures are based on the guidelines outlined in: *Safeguarding Children and Safer Recruitment in Education (December 2006)* and *Keeping Children Safe in Education (September 2016)*.
- 1.2. East Barnet School will ensure that any allegation of abuse made against a teacher or other member of staff or volunteer in the school is dealt with fairly, quickly and consistently within the framework set out in this policy.
- 1.3. We recognise that any possibility that a member of staff may have harmed a student must be investigated thoroughly, but in a way that does not prejudice either the student or the member of staff.
- 1.4. Any investigation of an allegation of abuse against a member of staff must follow the objective, professional standards and routines described here.
- 1.5. Reporting concerns is a statutory duty. We expect all members of the school community, where they have concerns, to report them in accordance with this policy
- 1.6. **Allegations of abuse against staff must be dealt with under this policy, rather than the school's general complaints procedure.**

2. Introduction

- 2.1. The procedure documented within this policy must be used in any case where it is alleged that a teacher or other member of staff or a volunteer, including a governor, working on behalf of the school (hereafter referred to as 'staff') has:
 - 2.1.1. behaved in a way that has harmed or may have harmed a child;
 - 2.1.2. possibly committed a criminal offence against or related to a child;
 - 2.1.3. behaved towards a child or children in a way that indicates s/he would pose a risk of harm and is unsuitable to work with children.
- 2.2. All members of staff in the school will be made aware of this policy and reminded they have a professional obligation to report any incident where they have grounds to believe that a member of staff has crossed the boundary of acceptable behaviour and may have caused harm.
- 2.3. A disclosure of abuse is most likely to occur in one of the following two ways:
 - 2.3.1. a direct allegation by a student or a third party, for example a parent;
 - 2.3.2. an observation by a member of staff that the behaviour of a colleague is inappropriate, or potentially or actually abusive.

3. Procedure

3.1. Initial allegation made to the school

- 3.1.1. Any allegation of abuse of a student by a member of staff must be reported to the Headteacher or, where the Headteacher is the subject of an allegation, the Chair of Governors.

3.2. Initial action

- 3.2.1. The Child Protection Officer and Headteacher will ensure that they have a full understanding of what is being alleged from the member of staff or third party, only speaking to the child if it is unavoidable or it is the child making the allegation.
- 3.2.2. No one in the school may investigate the incident by interviewing either those directly involved or any witnesses; to do so could prejudice a fair hearing at a later date.
- 3.2.3. The Child Protection Officer and Headteacher will simply establish that:
 - 3.2.3.1. an allegation has been made;
 - 3.2.3.2. the general nature of the allegation;
 - 3.2.3.3. when and where the incident is alleged to have occurred;
 - 3.2.3.4. who was involved;
 - 3.2.3.5. any other persons present.
- 3.2.4. The matter will not be discussed with the person who is the subject of the allegation at this stage. The Headteacher will make a decision at this point as to whether or not the Chair of Governors should be informed.
- 3.2.5. Should the allegation meet any of the criteria outlined above then the Child Protection Officer, in consultation with the Headteacher, should report the allegation to the Local Authority Designated Officer (LADO) on the day that the allegation is received.
- 3.2.6. The Headteacher will discuss the matter with the LADO and provide any further details of the allegation and the circumstances in which it was made. The discussion will also consider whether there is evidence or information that establishes that the allegation may be false or unfounded.
- 3.2.7. If the allegation is not patently false and there is cause to suspect that a child is suffering or is likely to suffer significant harm, the LADO will immediately refer to Children's Social Care and ask for a **strategy discussion** in accordance with '*Working Together to Safeguard Children*' to be convened straight away. In those circumstances the strategy discussion should include the LADO and the Headteacher.

3.3. Suspension

- 3.3.1. Suspension is a neutral act, not a sanction. It is not automatic and alternatives will be considered. The possible risk of harm to students posed by an accused person needs to be assessed and managed – in respect of the student(s) involved in the allegation, and any other children in the accused individual's home, work or community life.
- 3.3.2. Suspension will be considered in any case where:
 - 3.3.2.1. There is cause to suspect a child is at risk of significant harm,
 - 3.3.2.2. The allegation warrants formal investigation by the police;

- 3.3.2.3. There is a likelihood that evidence may be tampered with, or witnesses intimidated
- 3.3.2.4. The allegation is so serious that it might be grounds for dismissal.
- 3.3.3. The school will consider carefully whether the circumstances of a case warrant a person being suspended from contact with the students until the allegation is resolved. In deciding whether to suspend a member of staff, the school will consider advice given at a strategy meeting and any risk assessment that may need to be undertaken.

3.4. Notifications

- 3.4.1. Information and notifications will be communicated on a 'need to know basis'.
- 3.4.2. If there is no cause to suspect that "significant harm" is an issue, but a criminal offence might have been committed, the LADO should immediately inform the police and convene a similar discussion to decide whether a Police investigation is needed. That discussion will also involve East Barnet School and any other agencies involved with the student.
- 3.4.3. If the parents/carers of the student concerned are not already aware of the allegation, the LADO and Headteacher should discuss how and by whom they should be informed.
- 3.4.4. In some circumstances the school may advise parents of an incident involving their child straight away, for example, if the child has been injured while at school or in a school related activity, and requires medical treatment.
- 3.4.5. The Headteacher will usually inform the accused person about the allegations as soon as possible after consulting with the LADO. However, where a strategy discussion is needed, this will be deferred until after consultation with the police has taken place, and there is agreement about what information can be disclosed to the person.
- 3.4.6. If the person is a member of a union or professional association s/he will be advised to contact that organisation at the point they are notified of the allegation and have them present at any meeting where the allegation is discussed or where suspension is being considered.

3.5. Action following initial consideration

- 3.5.1. Where the initial consideration decides that the allegation does not involve a possible criminal offence, it will be for the Headteacher to deal with the matter in consultation with School Governors. In such cases, if the nature of the allegation requires formal disciplinary action and can be held without further investigation, then a disciplinary hearing should be held within **fifteen working days**. If disciplinary procedures are not required, but other appropriate action is necessary, these should be instituted within **three working days**.
- 3.5.2. Where further investigation is required to inform consideration of disciplinary action the Headteacher and the Chair of Governors and/or the designated Child Protection governor should discuss who will undertake the investigation with the LADO.
- 3.5.3. The investigating officer should aim to provide a report to the Headteacher and Governors within **ten working days**.
- 3.5.4. The following definitions should be used when determining the outcome of allegation investigations:
 - 3.5.4.1. **Substantiated:** there is sufficient identifiable evidence to prove the allegation;

- 3.5.4.2. **False:** there is sufficient evidence to disprove the allegation;
- 3.5.4.3. **Malicious:** there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false;
- 3.5.4.4. **Unfounded:** there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances;
- 3.5.4.5. **Unsubstantiated:** this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
- 3.5.5. On receipt of the report of the disciplinary investigation, the Headteacher and the School Governors should consult the LADO and decide **within two working days** whether a disciplinary hearing is needed. If a hearing is needed it should be held within the next **fifteen working days**.
- 3.5.6. In any case in which children's social care has undertaken enquiries to determine whether the child or children are in need of protection, the Headteacher and Chair of Governors should take account of any relevant information obtained in the course of those enquiries when considering disciplinary action.
- 3.5.7. The LADO should continue to liaise with the school to monitor progress of the case and provide advice or support when required or requested.

4. Case subject to police investigation

- 4.1. If the police and/or Crown Prosecution Service decide not to charge the individual with an offence, or decide to administer a caution, or the person is acquitted by a court, the police should, wherever possible, aim to pass all information they have which may be relevant to a disciplinary case to the Headteacher within **three working days** of the decision. In those circumstances the Headteacher and the LADO should proceed as described above.
- 4.2. Where children's social care has undertaken enquiries to determine whether the child or children are in need of protection, any information obtained in the course of those enquiries which is relevant to a disciplinary case should also be passed to the school. The Headteacher should request this information.

5. Supporting those involved

- 5.1. East Barnet School recognises its duty of care to its employees and will act to manage and minimise the stress inherent in the allegations process. Support for the individual is key to fulfilling this duty.
- 5.2. Individuals will be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by the children's social care services or the police.
- 5.3. The person who is the subject of the allegation will be kept informed of the progress of the case and consideration will be given to what other support is appropriate for the individual.
- 5.4. If or when employees are suspended they will be kept informed of both the progress of their case and current work-related issues.

- 5.5. Social contact with colleagues and friends will not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.
- 5.6. Parents or carers of a child or children involved will be told about the allegation as soon as possible if they do not already know of it. *(Note: Where a strategy discussion is required, or police or children's social care services need to be involved, the 'case manager' should not disclose any information until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers.)*
- 5.7. Parent or carers will also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. *(Note: The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but the parents or carers of the student should be told the outcome in confidence. Parents and carers should also be made aware of the prohibition on reporting or publishing allegations about teachers in section 141F of the Education Act 2002. If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice. In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's social care services, or the police as appropriate, should consider what support the student(s) or children involved may need).*

6. Resignations and 'compromise agreements'

6.1. 'Compromise agreements' will not be used in cases involving allegations of abuse.

- 6.2. If the accused person resigns, or ceases to provide their services, this will not prevent an allegation being followed up in accordance with this policy. Every effort will be made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process.
- 6.3. When possible the accused will be given a full opportunity to answer the allegation and make representations about it.
- 6.4. The process of recording the allegation and any supporting evidence, and reaching a judgement will continue even if that cannot be done or the accused does not cooperate.
- 6.5. Even though it may not be possible to apply any disciplinary sanctions, if a person's period of notice expires before the process is complete, the school will endeavour to reach and record a conclusion wherever possible.
- 6.6. If, on conclusion of the case, the school ceases to use the accused person's services, or the accused person resigns or ceases to provide his or her services, the school will consider a referral to the Disclosure and Barring Service (DBS) if:
 - 6.6.1. Dismissal was for misconduct or because the member of staff was otherwise considered unsuitable to work with children;
 - 6.6.2. The member of staff resigns before a disciplinary process is completed and the school believes that the evidence was sufficient to consider dismissal.
- 6.7. If referred to the DBS, the member of staff will be sent a letter explaining the process, including their right to make a representation.

7. Record keeping

- 7.1. Details of allegations that are found to have been **malicious** will be removed from personnel records.
- 7.2. For all other allegations a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, will be kept on the confidential personnel file of the accused, and a copy provided to the person concerned.
- 7.3. The record of the allegation and the investigation will be retained at least until the accused has reached normal retirement age or for a period of ten years from the date of the allegation if that is longer. (Note: The purpose of the record is to enable accurate information to be given in response to any future request for a reference, if and where appropriate. It will provide clarification in cases where future DBS disclosures reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if an allegation re-surfaces after a period of time.)

8. References

- 8.1. Cases in which an allegation was proven to be false, unsubstantiated, unfounded or malicious will not be included in employer references.
- 8.2. A history of repeated concerns or allegations which have all been found to be unsubstantiated, malicious etc. will not be included in any employer reference.

9. Related Policies

- 9.1. Safeguarding and Child Protection Policy
- 9.2. Complaints Policy
- 9.3. Governors' Code of Conduct
- 9.4. Staff Discipline, Conduct and Appeals Policies