



WINCHCOMBE SCHOOL

Allegations Management Policy

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Review Responsibility: Curriculum

Adopted		
Signature		Headteacher
Signature		Chair of Curriculum Committee
Date		
Version Updates		

The policy should be read in conjunction with the School's **Child Protection Safeguarding Policy**, Appendix 3.

1. Duty of Care

The School has a duty of care both to their pupils and their employees.

The School should provide effective support for anyone facing an allegation and provide the employee with a named contact if they are suspended. It is essential that any allegation of abuse made against any member of staff or volunteer is dealt with quickly, in a fair and consistent way that provides effective protection for the child, whilst also supporting the person who is the subject of the allegation.

2. Reporting Procedure

All allegations will be treated consistently, with common sense and good judgement.

Criteria for reporting allegations are set out in Appendix 3 of the **Child Protection Safeguarding Policy**.

Allegations should be reported immediately to the most senior member of staff (usually the Head Teacher) providing they are not implicated in, or a witness to the incident of concern.

If the concern relates to the Head Teacher, the report should be made to one of the following: Chair of Governors or Vice-Chair of Governors. That person will be the 'case manager'.

It is not the responsibility of the Designated Safeguarding Lead (DSL) to oversee the Allegations Management process.

3. Initial considerations

In the first instance, the case manager must inform the Gloucestershire Local Authority Designated Officer for Allegations Management (LADO) on Tel: 01452 426 994 at the first possible opportunity, to jointly consider the allegation.

The case manager must describe the nature, content and context of the allegation and agree a course of action.

The LADO may ask the case manager to provide or obtain relevant additional information, such as previous history, whether the child or their family have made similar allegations previously and the individual's current contact with children.

The case manager may wish to involve the police immediately, for example if the person is deemed to be an immediate risk to children or there is evidence of a possible criminal offence. Where there is no such evidence, the case manager should discuss the allegations with the LADO to determine whether police involvement is necessary.

The initial sharing of information and evaluation may lead to a decision that no further

action is required; in which case this decision and a justification for it should be recorded by both the case manager and the LADO, and agreement reached on what should be written to the individual concerned and by whom.

If no further action required due to unsubstantiated allegations:

The case manager and LADO should discuss what action should follow both in respect of the individual and those who made the initial allegation.

If the allegations are found to be malicious, all records of the allegation should be deleted from the individual's personnel file (see 7. Record Keeping).

If further steps necessary:

The case manager should inform the accused person about the allegation as soon as possible after consulting the LADO. It is important that the case manager provides them with as much information as possible at that time.

However, where a strategy discussion is needed, or police or children's social care services need to be involved, the case manager should not do that until those agencies have been consulted and have agreed what information can be disclosed to the accused.

Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the school or whether alternative arrangements can be put in place until the allegation or concern is resolved. **All options to avoid suspension should be considered prior to taking that step** (see further information on suspension in section 8).

If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take into account that teachers and other School staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour.

Where an investigation by the police or children's social care services is deemed unnecessary, the LADO should discuss the next steps with the case manager.

The options open to the school depend on the nature and circumstances of the allegation and the evidence and information available. This will range from taking no further action to dismissal or a decision not to use the person's services in future. Suspension should not be the default; an individual should be suspended only if there is no reasonable alternative.

In some cases, further enquiries will be needed to enable a decision about how to proceed. If so, the case manager should discuss with the LADO how and by whom the investigation will be undertaken. In straightforward cases, the investigation should normally be undertaken by a member of SLT.

However, in other circumstances, such as lack of appropriate resource within the school or the nature or complexity of the allegation will require an independent investigator. Many local authorities already provide for an independent investigation of allegations, often as part of Traded Services. It is important that local authorities ensure that schools and colleges

have access to an affordable facility for independent investigation where that is appropriate.

4. Supporting those involved

The School has a duty of care to their employees. They should act to manage and minimize the stress inherent in the allegations process. Support for the individual is vital to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and the likely course of action explained to them unless there is an objection by the children's social care services or the police.

The individual should be advised to contact their trade union representative, if they have one, or a colleague for support. They should also be given access to welfare counselling or medical advice if applicable.

The case manager should appoint a named representative to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual. When employees are suspended, it is important to ensure that they are kept informed of both the progress of their case and current work-related issues. Social contact with colleagues and friends should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

Parents or carers of a child or children involved should be told about the allegation as soon as possible if they do not already know of it (see p. 28 of **Child Protection Safeguarding Policy** for further details).

It is important that parents and carers are made aware of the prohibition on reporting or publishing allegations about teachers in section 141F of the Education Act 2002, updated by the Education Act 2011 – see 'Confidentiality' below. If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice.

5. Confidentiality

It is extremely important that when an allegation is made, the school makes every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.

The Education Act 2011 introduced reporting restrictions preventing the publication of any material that may lead to the identification of a teacher who has been accused by, or on behalf of, a pupil from the same school or college (where that identification would identify the teacher as the subject of the allegation). The reporting restrictions apply until the point that the accused person is charged with an offence, or until the Secretary of State or the General Teaching Council for Wales publishes information about an investigation or decision in a disciplinary case arising from the allegation.

The reporting restrictions also cease to apply if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a judge lifts restrictions in response to a request to do so. The provisions commenced on 1 October 2012.

In deciding what information to disclose, careful consideration should be given to the provisions of the Data Protection Act 1998, the law of confidence and, where relevant, the Human Rights Act 1998.

The legislation imposing restrictions makes clear that “publication” of material that may lead to the identification of the teacher who is the subject of the allegation is prohibited. “Publication” includes “any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public.” This means that a parent who, for example, published details of the allegation on a social networking site would be in breach of the reporting restrictions (if what was published could lead to the identification of the teacher by members of the public).

In accordance with the Association of Chief Police Officers’ (ACPO) guidance, the police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. (In exceptional cases where the police would like to depart from that rule, for example an appeal to trace a suspect, they must apply to a magistrates’ court to request that reporting restrictions be lifted).

6. Resignations and ‘settlement/compromise agreements’

If the accused person resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with this guidance. In the above circumstances, it will not be appropriate to reach a settlement/compromise agreement.

The school has a legal duty to refer to the DBS anyone who has harmed or poses a risk of harm to a child (see para 163 of KCSIE and Section 9. below). A settlement/compromise agreement which prevents the school from making a DBS referral cannot therefore be made.

It is important that every effort is 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. Wherever possible the accused should be given a full opportunity to answer the allegation and make representations about it.

The process of recording the allegation and any supporting evidence, then reaching a judgement on whether it can be substantiated based on all the information available, should continue even if the accused does not cooperate. It may be difficult to reach a conclusion in those circumstances, and it may not be possible to apply any disciplinary sanctions if a person’s period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

So-called ‘settlement/compromise agreements’, by which a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, should not be used in cases of refusal to cooperate or resignation before the person’s notice period expires. Such an agreement will not prevent a thorough police investigation where that is appropriate.

7. Record keeping

Details of allegations that are found to have been malicious should be removed from personnel records and should not be included in future employment references.

However, for all other allegations, it is important that a clear and comprehensive summary of the allegation and procedures followed is kept on the person's staff file. Full details of this are given on p. 30 of **Child Protection Safeguarding Policy**.

The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on employment retention.

8. Suspension

The possible risk of harm to children posed by an accused person should be evaluated and managed in respect of the child(ren) involved in the allegations. In some rare cases that will require the case manager to consider suspending the accused until the case is resolved. Suspension should not be an automatic response when an allegation is reported; all options to avoid suspension should be considered prior to taking that step. If the case manager is concerned about the welfare of other children in the community or the teacher's family, those concerns should be reported to the LADO or police.

Appendix 3 of Child Protection Safeguarding Policy (p.26) gives alternatives to suspension to allow more time to make an informed decision and possibly reduce the initial impact of the allegation. This will, however, depend upon the nature of the allegation. The case manager should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unsubstantiated or maliciously intended.

If immediate suspension is considered necessary, the rationale and justification for such a course of action should be agreed and recorded by both the case manager and the LADO. This should also include what alternatives to suspension have been considered and why they were rejected.

Where it has been deemed appropriate to suspend the person, written confirmation should be dispatched within one working day, giving as much detail as appropriate for the reasons for the suspension. It is not acceptable for an employer to leave a person who has been suspended without any support. The person should be informed at the point of their suspension who their named contact is within the school.

Children's social care services or the police cannot require the case manager to suspend a member of staff or a volunteer, although their advice should be considered. The power to suspend is vested in the Governing Body. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by the children's social care services and/or an investigation by the police, the LADO should canvass their views to help the Governors make an informed decision. Police involvement does not make it mandatory to suspend a member of staff; this decision should be taken on a case-by-case basis, having undertaken a risk assessment.

9. Specific actions following a criminal investigation or a prosecution.

The police should inform the school and LADO immediately when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to continue to prosecute the case after person has been charged. In those circumstances the LADO should discuss with the case manager whether any further action, including disciplinary action, is appropriate and, if so, how to proceed.

10. On conclusion of a case

If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the LADO should discuss with the case manager and the Business Manager whether the school will decide to make a referral to the DBS for consideration of inclusion on the barred lists, and in the case of a member of teaching staff whether to refer the matter to the National College for Teaching and Leadership (NCTL) to consider prohibiting the individual from teaching.

There is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child.

Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the case manager should consider how best to facilitate that. Most people will benefit from some help and support to return to work after a stressful experience. Depending on the individual's circumstances, a phased return and/or the provision of a mentor to support them in the short term may be appropriate. The case manager should also consider how the person's contact with the child(ren) who made the allegation can best be managed if they are still a pupil at the school.

11. Malicious or unsubstantiated allegations

If an allegation is determined to be unsubstantiated or malicious, the LADO should refer the matter to the children's social care services to determine whether the child concerned needs help or may have been abused by someone else. If an allegation is shown to be deliberately invented or malicious, the Headteacher should consider whether any disciplinary action is appropriate against the pupil who made it; or whether the police should be asked to consider if action might be appropriate against the person responsible, even if he or she was not a pupil.

12. Learning lessons

At the conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the case manager to determine whether there are any improvements to be made to school procedures to help prevent similar events in future.

This should include issues arising from the decision to suspend the member of staff, the duration of the suspension and whether suspension was justified. Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated. The LADO

and case manager should consider how future investigations of a similar nature could be carried out without suspending the individual.

Allegations Management Flow Chart

