



## **Allegations against a member of Staff Policy and Procedures**

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Panel Responsible:	MAT Board
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Policy Management:	DFO

## 1 PURPOSE

- 1.1 This policy is St Christopher's Multi Academy Trust's (the Trust) policy in respect of managing allegations made against staff. For the purposes of this document "staff" refers to anyone who comes into contact with children for whom the Trust has management and/or oversight. The Trust has a legal duty to promote and safeguard the welfare of children. It also has a duty of care towards staff. This policy should be read in connection with the statutory guidance contained in the latest version of Keeping Children Safe in Education.
- 1.2 The purpose of this policy is to provide an effective framework to manage allegations. The objective is to ensure that any allegation of unacceptable/inappropriate behaviour or abuse is dealt with fairly and in a way that provides effective action to protect children and to ensure that anyone who is the subject of an allegation is treated fairly and provided with appropriate support. While allegations should be resolved as quickly as possible, they must be properly and carefully addressed.
- 1.3 If there are any questions about this policy then they should be directed to the CEO.

## 2 APPLICABILITY

- 2.1 This policy covers all employees, officers, consultants, contractors, volunteers, casual workers and agency workers.
- 2.2 This policy must be provided to all staff as part of their induction and they should confirm and record that they have read and understand it. It is vital that this policy (along with other safeguarding policies) are read and understood by all staff.
- 2.3 It is important to keep in mind that an allegation of abuse may relate to circumstances which take place both on and off the school sites. This may include electronic and social media communications
- 2.4 What is an Allegation
- 2.5 Allegations may be made in a number of ways, including (but not limited to):
  - 2.5.1 Direct disclosure by the child or young person
  - 2.5.2 Indirect disclosure i.e. through written work, behaviour or art (especially relevant for children with SEN and disabilities)
  - 2.5.3 Complaints from parents
  - 2.5.4 Complaints to the police from parents, children or young people
  - 2.5.5 Reports by other colleagues or agencies

It is important to note that everyone who comes into contact has a duty to promote and safeguard children.

## 3 ALLEGATIONS REQUIRING FORMAL ACTION

- 3.1 In accordance with statutory guidance, action will be taken where an allegation is made that a person has:

- behaved in a way that has harmed a child, or may have harmed a child;
- possibly committed a criminal offence against or related to a child; or
- behaved towards a child or children in a way that indicates he or she would pose a risk of harm to children.

3.2 Where a person has had an allegation made against them, they are advised to seek support from their professional association (if appropriate).

#### 4 **REPORTING PROCEDURE TO BE FOLLOWED SHOULD AN ALLEGATION BE MADE**

4.1 Any allegation of abuse by a member of staff against a pupil must be reported **immediately** to the Headteacher or if it concerns the Headteacher then the Chair of Governors should be informed.

4.2 If any member of staff has any concerns or questions about what to do then they may also contact the CEO of the Trust for guidance.

#### 5 **INITIAL CONSIDERATION OF ALLEGATION**

5.1 The procedures for dealing with allegations need to be applied with common sense and judgement. Many cases may well either not meet the criteria set out above, or may do so without warranting consideration of either a police investigation or enquiries by local authority children's social care services. In these cases, local arrangements should be followed to resolve cases without delay.

5.2 Some rare allegations will be so serious they require immediate intervention by children's social care services and/or police. The designated officer(s) should be informed of all allegations that come to a school or college's attention and appear to meet the criteria so they can consult police and children's social care services as appropriate.

5.3 Any disclosure made must be kept strictly private and confidential (this includes the fact of a disclosure being made). If a member of staff is distressed by any particular disclosure then they should also seek appropriate support from the Head Teacher. 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 should be made clear to anyone aware of the allegation (including parents).

5.4 The case manager (Headteacher or Chair of Governors) should take advice from the designated officer(s), police and children's social care services to agree the following:

- who needs to know and, importantly, exactly what information can be shared;
- how to manage speculation, leaks and gossip;
- what, if any, information can be reasonably given to the wider community to reduce speculation; and

- how to manage press interest if, and when, it should arise.

## **6 REPORTING TO THE LOCAL AUTHORITY DESIGNATED OFFICER (LADO)**

6.1 Should the allegation meet any of the following criteria then the Headteacher will report the allegation to the LADO immediately the allegation is received, outlining that a teacher, member of staff or a volunteer in the Academy:

- behaved in a way that has harmed a child, or may have harmed a child;
- possibly committed a criminal offence against or related to a child; or
- behaved towards a child or children in a way that indicates he or she would pose a risk of harm to children.

Should there be any doubt about whether or not to refer the LADO may still be contacted for advice and guidance.

## **7 INITIAL INVESTIGATION**

7.1 If necessary, the Headteacher will discuss the matter with the LADO and provide further details of the allegation. The discussion will also consider whether there is evidence that the allegation is false or unfounded. In these circumstances the Academy will not act before receiving advice from the LADO on the appropriate action that needs to be taken.

7.2 If there is cause to suspect that a pupil may be suffering or is likely to suffer significant harm, the Local Authority will decide whether to call a strategy meeting. If a strategy meeting is called it will be led by the LADO who will invite representation from the Academy.

7.3 If there is not cause to suspect 'significant harm', but a criminal offence might have been committed, the LADO may inform the police and convene a similar discussion to decide whether a police investigation is needed.

## **8 LADO ACTION FOLLOWING INITIAL CONSIDERATION**

8.1 Where the initial consideration decides that the allegation does not involve any of the criteria which means action is required, the Academy will need to consider each case on its own facts with an open mind and carefully. This may include consideration of whether or not there should be consideration of the Trust's disciplinary policy or if there are any recommendations from the LADO.

8.2 On consideration of the report, the Headteacher/Chair of Governors will write to the parent/carer of the pupil involved and the staff involved informing them of the outcome of the investigation.

## **9 ACTIONS ON COMPLETION OF THE INVESTIGATION**

9.1 If any investigation is necessary then on completion of the Child Protection investigation there should be a review meeting between appropriate staff. To consider all relevant issues arising including whether or not the Police should be involved and communication with the parents.

9.2 The LADO will liaise with the Headteacher and others involved in the review to

discuss the findings of the investigation with them. It is then for the Headteacher, in consultation with the relevant officers, to determine the appropriate course of any further action.

- 9.3 The Headteacher will then write to the member of staff and parents informing them of the outcome of the investigation.

## 10 SUSPENSION

- 10.1 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 (the Headteacher or Chair of Governors) 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 designated officer(s) or police. But suspension is highly unlikely to be justified on the basis of such concerns alone.

- 10.2 Suspension should be considered only in a case where there is cause to suspect a child or other children at the school or college is/are at risk of harm or the case is so serious that it might be grounds for dismissal. However, a person should not be suspended automatically: the case manager must consider carefully whether the circumstances warrant suspension from contact with children at the school or college or until the allegation is resolved, and may wish to seek advice from their personnel adviser and the designated officer(s). In cases where the Trust is made aware that the Secretary of State has made an interim prohibition order in respect of an individual at the school or college, it will be necessary to immediately suspend that person from teaching pending the findings of the National College for Teaching and Leadership's (NCTL) investigation.

- 10.3 The case manager should also consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements. In many cases an investigation can be resolved quickly and without the need for suspension. If the designated officer(s), police and children's social care services have no objections to the member of staff continuing to work during the investigation, the case manager should be as inventive as possible to avoid suspension. Based on assessment of risk, the following alternatives should be considered by the case manager before suspending a member of staff:

- redeployment within the school or college so that the individual does not have direct contact with the child or children concerned;
- providing an assistant to be present when the individual has contact with children;
- redeploying to alternative work in the school or college so the individual does not have unsupervised access to children;
- moving the child or children to classes where they will not come into contact with the member of staff, making it clear that this is not a punishment and parents have been consulted; or
- temporarily redeploying the member of staff to another role in a different location, for example to an alternative school or college or work for the local authority or academy trust.

- 10.4 These alternatives allow time for an informed decision regarding the suspension 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.
- 10.5 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 designated officer(s). This should also include what alternatives to suspension have been considered and why they were rejected.
- 10.6 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 organisation and provided with their contact details.
- 10.7 Children's social care services or the police cannot require the case manager to suspend a member of staff or a volunteer, although they should give appropriate weight to their advice. The power to suspend is vested in the Trust as the employer. 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 designated officer(s) should canvass police and children's social care services for views about whether the accused member of staff needs to be suspended from contact with children in order to inform the school or college consideration of suspension.
- 10.8 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.
- 10.9 If suspension is necessary it must at all times be viewed as a neutral act. No presumption should be made by any person because of a suspension.

## 11 POSSIBLE ACTION FOLLOWING INVESTIGATION

11.1 Keeping Children Safe in Education gives the following categories as outcomes:

- Substantiated: there is sufficient evidence to prove the allegation;
- Malicious: there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
- False: there is sufficient evidence to disprove the allegation;
- Unsubstantiated: there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

It is also possible to record an allegation as unfounded where there is no evidence at all to support or there has been a clear misinterpretation of an action.

11.2 If it is agreed, following investigation, that **no further action** is required, the Headteacher will:

11.2.1 inform the parent/carer of the pupil, in writing, of the allegation and outcome,

- i.e. a decision to take no further action and/or a view that there has been a false allegation;
- 11.2.2 determine whether the pupil needs further support or whether the allegation could be an indicator of other concerns (eg abuse elsewhere);
- 11.2.3 inform the member of staff, verbally and in writing, that an allegation has been made but that no further action under disciplinary or child protection procedures will be taken. The employee may have a workplace colleague or representative present during this discussion;
- 11.2.4 consider whether support, counselling and/or informal professional advice for the employee is appropriate and the form this might take. Make arrangements to offer such appropriate support to the employee;
- 11.2.5 consider appropriate counselling and support for the pupil and parent/carer, particularly where a false or malicious allegation has been made. The need for appropriate disciplinary action against the pupil should be considered at this stage;
- 11.2.6 prepare a report, to be copied to the employee, giving reasons for the conclusion that the allegation is without foundation and stating the action taken, as above;
- 11.2.7 clearly state on the member of staff's record that the staff member has been exonerated and consideration of disciplinary proceedings are not necessary.
- 11.2.8 If an allegation is determined to be unsubstantiated or malicious, the designated officers(s) should refer the matter to the children's social care services to determine whether the child concerned is in need of services, 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.
- 11.3 It should be understood that, where a police investigation has been undertaken, it is normal for the only recorded statement to be '*insufficient evidence to proceed*' where the police have not taken any further action against a person against whom allegations have been made.
- 11.4 If it is agreed, following investigation, that **further action is required**, the Headteacher will liaise with the Local Authority, the police, parents and the member of staff to ensure they are kept updated as necessary.

## 12 RESIGNATIONS/REFERRALS

- 12.1 This policy is designed to ensure that all staff are treated completely fairly. However, should a member of staff wish to resign during the process then they are free to do in accordance with their contract. However, staff must be assured that they will be treated fairly and understand that even if they do resign then the investigation may continue.
- 12.2 'Settlement agreements' (sometimes referred to as 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.

- 12.3 Cases in which an allegation was proven to be false, unsubstantiated or malicious should not be included in employer references. A history of repeated concerns or allegations which have all been found to be false, unsubstantiated or malicious should also not be included in any reference.
- 12.4 Schools and colleges have a legal duty to refer to the DBS anyone who has harmed, or poses a risk of harm, to a child or vulnerable adult; where the harm test is satisfied in respect of that individual; where the individual has received a caution or conviction for a relevant offence, or if there is reason to believe that the individual has committed a listed relevant offence; and that the individual has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left. The DBS will consider whether to bar the person.
- 12.5 Referrals should be made as soon as possible after the resignation or removal of the individual. Guidance on referrals can be found on GOV.UK.
- 12.6 Where the Trust dismisses or ceases to use the services of a teacher because of serious misconduct, or might have dismissed them or ceased to use their services had they not left first, they must consider whether to refer the case to the Secretary of State.
- 12.7 Referral is a legal duty and failure to refer may be a criminal offence. If there is any doubt then seek guidance directly from the CEO.

### 13 SUPPORT FOR THE MEMBER OF STAFF

- 13.1 As an employer, the Trust has a duty of care to our staff and Trust will strive to manage and minimise the stress inherent in the investigative process. The list below is not comprehensive and any and all options should be considered and the member of staff should be invited to make suggestions as to what support they may need. The welfare of staff should be actively considered throughout the process.
  - 13.1.1 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 care services or police.
  - 13.1.2 The Headteacher will arrange appropriate support i.e. an appropriate member of the senior leadership team not involved in the investigative process, to be assigned to support any individual subject to an allegation.
  - 13.1.3 The Headteacher will also provide support to the wider Academy community and will help employees to find external support as required.
  - 13.1.4 When a member of staff is suspended, the Academy will offer a link to a named member of staff to keep them informed of the status of any investigation. It is envisaged that updates as to the progress of an investigation will be given to the member of staff approximately every two weeks in term time, and no update will be provided during periods of school holidays.



- 13.1.5 Employees will be advised to seek advice from their professional association if appropriate. The Academy may offer counseling to the staff member through, for example, Trust's Occupational Health Advisers.

## 14 CONFIDENTIALITY

- 14.1 Details of the complaint will be regarded as strictly confidential and will not be extended beyond those involved in the investigation. As set out above, confidentiality must be taken extremely seriously.

## 15 TIMESCALES

- 15.1 It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations should be investigated as a priority to avoid any delay. Target timescales are shown below: the time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation, but these targets should be achieved in all but truly exceptional cases. It is expected that 80 per cent of cases should be resolved within one month, 90 per cent within three months, and all but the most exceptional cases should be completed within 12 months.
- 15.2 For those cases where it is clear immediately that the allegation is unsubstantiated or malicious, they should be resolved within one week. Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the employer to deal with it, although if there are concerns about child protection, the employer should discuss them with the designated officer(s). In such cases, if the nature of the allegation does not require formal disciplinary action, the employer should institute appropriate action within three working days. If a disciplinary hearing is required then the matter will be addressed in accordance with the Disciplinary Policy and Procedure for Employees.

## 16 RECORD KEEPING

- 16.1 Details of allegations that are found to have been malicious should be removed from personnel records. However, for all other allegations, it is important that 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, is kept on the confidential personnel file of the accused, and a copy provided to the person concerned.
- 16.2 The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS checks 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, as sometimes happens, an allegation re-surfaces after a period of time. The record should be retained at least until the accused has reached normal pension age or for a period of 10 years from the date of the allegation if that is longer.

## 17 REVIEW OF POLICY

- 17.1 This policy will be reviewed annually (or sooner in the event of revised legislation guidance) and will be considered alongside other relevant policies and procedures which interface and inform one another.