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Allegations against Staff Policy (Local Authority)

Date of review: January 2020

Date of next review: January 2021

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BERRYMEDE JUNIOR SCHOOL

Allegations against Staff Policy



Summary

It remains a statutory requirement for schools to have a statement of procedures for dealing with allegations of abuse against staff. This procedure is a model that governing bodies can adopt though they also remain free to draw up their own procedure as long as it takes account of the statutory guidance:

Keeping children safe in education

Statutory guidance for schools and colleges (Department of Education May 2015)

<https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>

This guidance confirms requirements regarding managing allegations of abuse made against teachers and other staff. The original statutory guidance "Dealing with allegations of abuse against teachers and other staff" (October 2012) has now been archived as the new "Keeping children safe in education" provides the most recent statutory guidance and also replaces "Safeguarding children and safer recruitment in education" (December 2006).

This model also gives more detailed advice regarding how schools should practically deal with allegations as outlined in the:

London Child Protection Procedures

5th Edition December 2013 Part 7 Allegations against staff or volunteers, who work with children

http://www.londoncp.co.uk/chapters/alleg_staff.html

This procedure also takes account of the overview of how allegations should be handled set out in

Working Together to Safeguard Children

A guide to inter-agency working to safeguard and promote the welfare of children (Department of Education March 2015)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/419595/Working_Together_to_Safeguard_Children.pdf

Responding to allegations of abuse by teachers and other school staff

1. Scope

- This guidance is about managing cases of where an allegation has been made that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children. It should be used in respect of all cases in which it is alleged that a member of staff¹ in a school that provides education for children under 18 years of age 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 if they work regularly or closely with children.

These behaviours should be considered within the context of the four categories of abuse: physical, sexual, emotional abuse and neglect.

Staff and volunteers should feel able to raise concerns about poor or unsafe practice and potential failures in the school safeguarding regime. Appropriate whistleblowing procedures, which are suitably reflected in staff training and staff behavior policies, should be in place for such concerns to be raised with the school management team.

2. Initial action by person receiving or identifying an allegation or concern

The person to whom an allegation or concern is first reported should treat the matter seriously and keep an open mind. They should not:

- Investigate or ask leading questions if seeking clarification
- Make assumptions or offer alternative explanations
- Promise confidentiality, but they can give assurance that the information will only be shared on a 'need to know basis'

They should:

- Make a written record of the information (where possible in the child's own words), including the time, date and place of incident/s, persons present and what was said;
- Sign and date the written record and immediately report the matter to the designated senior child protection manager
- Take a photograph or complete a body map of any overt physical injuries
- If staff members are unsure they should always speak to their designated safeguard lead. However in exceptional circumstances, such as in an emergency or a genuine concern that appropriate action has not been taken, staff members can speak directly to children's services social care.
- [The 2015 Keeping Children Safe Guidance](#) confirms that where staff have concerns about another staff member they must report directly to the headteacher.
- Where there are concerns about the Headteacher it must be referred to the Chair of Governors.

3. Initial action by the designated senior manager

The procedures for dealing with allegations need to be applied with common sense and judgement. When informed of a concern or allegation, the designated manager should not initially investigate the matter or interview the member of staff, child concerned or potential witnesses. They should:

- Obtain written details of the concern / allegation, signed and dated by the person receiving (not the child / adult making the allegation);

¹ All references in this document to 'members of staff' should be interpreted as meaning all paid or unpaid staff and volunteers.

- Record any information about times, dates and location of incident/s and names of any potential witnesses;
- Record discussions about the child and/or member of staff, any decisions made, and the reasons for those decisions

The Local Authority Designated Officer **Lisa Tingle** should be informed within one working day when allegations appear to meet the criteria listed in section one. Referrals should not be delayed in order to gather information. In her absence you should contact one of the Child Protection Advisors (see section fifteen - Key Contacts) who can also advise you as they also chair Allegations Against Pupils (AAP) meetings.

The purpose of an initial discussion is for the Local Authority Designated Officer (LADO) and the case manager to consider the nature, content and context of the allegation and agree a course of action. It also alerts the LADO about cases that may also reach them via another route for example if the parent goes straight to the police or social care – allowing the LADO to have as full a picture as possible. To gain an overview the LADO may also want to know details of any previous complaints, any adult witnesses, any child witnesses, and noted injuries, any tensions between staff and parents and a clear idea of the time and location of when issues may have occurred.

This initial sharing of information and evaluation may lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern, in which case this decision and a justification for it should be recorded, by both the manager and the LADO, and agreement reached as to what information should be put in writing to the individual concerned and by whom. Although the LADO may feel the threshold for a continued AAP investigation has not been met, the school may feel they still have sufficient concerns regarding the individual facing the allegation, in which case they must decide what course of action they want to take and this may include warnings of a various nature or possible disciplinary action.

The case manager should inform the accused person about the allegation as soon as possible after consulting the LADO. It is extremely 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.

If the allegation is not 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 to be convened in accordance with the *Working Together to Safeguard Children 2015*.

4. Suspension

Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the school until the allegation or concern is resolved. An individual should only be suspended if there is no reasonable alternative. Suspension should be considered only in a case where there is cause to suspect a child or other children at the school are at risk of harm or the case so serious that it might be grounds for dismissal. Suspension should not be the default option but if used the reasons and justification should be recorded by the school and the individual notified of the reasons. The strategy meeting may advise a school to suspend but the actual decision will rest with the Headteacher or Chair of Governors.

Based on assessment risk the following alternatives should be considered by the case manager before suspending a member of staff:

- redeployment within the school 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;
- redeployment to alternative work in the school 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;
- temporarily redeploying the member of staff to another school in a different location, for example to an alternative school or college or for the local authority or academy trust.

5. Strategy Meeting

The meeting will normally include the LADO or their representative, a Child Protection Adviser from Children's services, a senior manager from the school, school's HR and depending on the circumstances the police and legal services. Other relevant individuals may be invited depending on the circumstances. 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 the initial consideration or strategy meeting decides the allegation does not involve a possible criminal offence or require a children's services investigation it should be dealt with by the school. In such cases if the nature of the allegation does not require formal disciplinary action, appropriate action should be instituted within three working days. If a disciplinary hearing is required and can be held without further investigation the hearing should be held within 15 working days.

If the strategy meeting decides a Section 47 enquiry or police investigation is required any unilateral action by the school will need to be suspended, unless otherwise agreed, until their investigations are complete. Protocols for sharing information in a police or children's services investigation need to be agreed especially as a common outcome will be to refer the issue back to the school to consider as a disciplinary issue.

Where further investigation is required to inform consideration of disciplinary action the employer should discuss who will undertake that with the LADO. In some circumstances it may be appropriate for the disciplinary investigation to be conducted by a person who is independent of the employer or the person's line manager to ensure objectivity. In any case the investigating officer should aim to provide a report to the employer within 10 working days.

The following definitions should be used when determining the outcome of allegation investigations:

- 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.

6. Supporting those involved

The headteacher should inform the accused person about the allegation as soon as possible after consulting the LADO. He or she should provide them with as much information as possible at the time. However, where a strategy discussion is needed, or police or local authority's social care services need to be involved, the head should not do that until those agencies have been consulted, and have agreed what information can be disclosed to the person.

Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations and disciplinary process. Support for the individual is key to fulfilling this duty. Individuals should 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 local authority 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. When appropriate they should also be given access to welfare counselling or medical advice where this is provided by the employer. Schools can refer staff to "workplace options" if they buy into this service.

The school 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. Particular care needs to be taken when employees are suspended 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 must 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. However, where a strategy discussion is required, or police or local authority children's social care services need to be involved, the head should consult those agencies and agree what information can be disclosed to the parents. They should 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. 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 child 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.

Children's services have produced a leaflet "A guide for staff and volunteers who work with children and are the subject of an allegation of abuse" to provide information to staff who are the subject of an allegation of abuse. A copy can be found on the Ealing Grid For Learning (EGFL) at:

<https://www.egfl.org.uk/sites/default/files/imported/categories/personnel/safe/Downloads/AAPleaflet2013.pdf>

7. 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.

Schools should take advice from the LADO, police and local authority 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.

From 1st October 2012 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. Basically the reporting restrictions apply until the point that the accused person is charged with an offence.

The case manager should take advice from the LADO, 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

8. Resignations and Settlement agreements

The fact that a person tenders his or her resignation or ceases to provide their services must not prevent an allegation being followed up in accordance with these procedures. By the same token settlement agreements, by which a person agrees to resign if the school agrees not to pursue disciplinary action, must not be used in these cases. A referral to the Disclosure & Barring Service (DBS) must be made if the criteria are met (see section 13).

9. Record Keeping

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 a person's confidential personnel file, and a copy provided to the person concerned.

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 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, as sometimes happens, an allegation re-surfaces after a period of time. The record should be retained at least until the person has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

10. References

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

11. Information sharing

In a strategy discussion or the initial evaluation of the case, the agencies involved should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.

Where the police are involved, wherever possible the employer should ask the police to obtain consent from the individuals involved to share their statements and evidence for use in the employer disciplinary process. This should be done as their investigation proceeds and will enable the police to share relevant information without delay at the conclusion of their investigation or any court case.

Children's social care services should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are in need or protection or services, so that any information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to the employer without delay.

12 Action following a criminal investigation or a prosecution

The police or the Crown Prosecution Service (CPS) should inform the school and LADO straight away 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 headteacher, and Chair of Governors whether any further action, including disciplinary action, is appropriate and, if so, how to proceed.

13 Action on conclusion of a case

If the allegation is substantiated and the person is dismissed or the school ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the LADO and the school should discuss whether a referral to the DBS for consideration of inclusion on the barred lists and /or (for teachers) to the Department of Education is needed.

There is also a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child or if a person otherwise poses a risk of harm to a child. In such circumstances, the duty to refer an individual to the DBS arises where an employer has removed the individual from relevant work with children or the person has chosen to cease relevant work in circumstances where they would have been removed had they not done so. Professional misconduct cases should be referred to the relevant regulatory body. The DBS will consider whether to bar the person from working in regulated activity, which will include work in schools and other educational establishments. Local authorities & schools and other bodies all have a statutory duty to make reports, and to provide relevant information to the DBS. Referrals should be made as soon as possible after the resignation or removal of the member of staff involved and within one month of ceasing to use the person's services.

14 In respect of 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 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.

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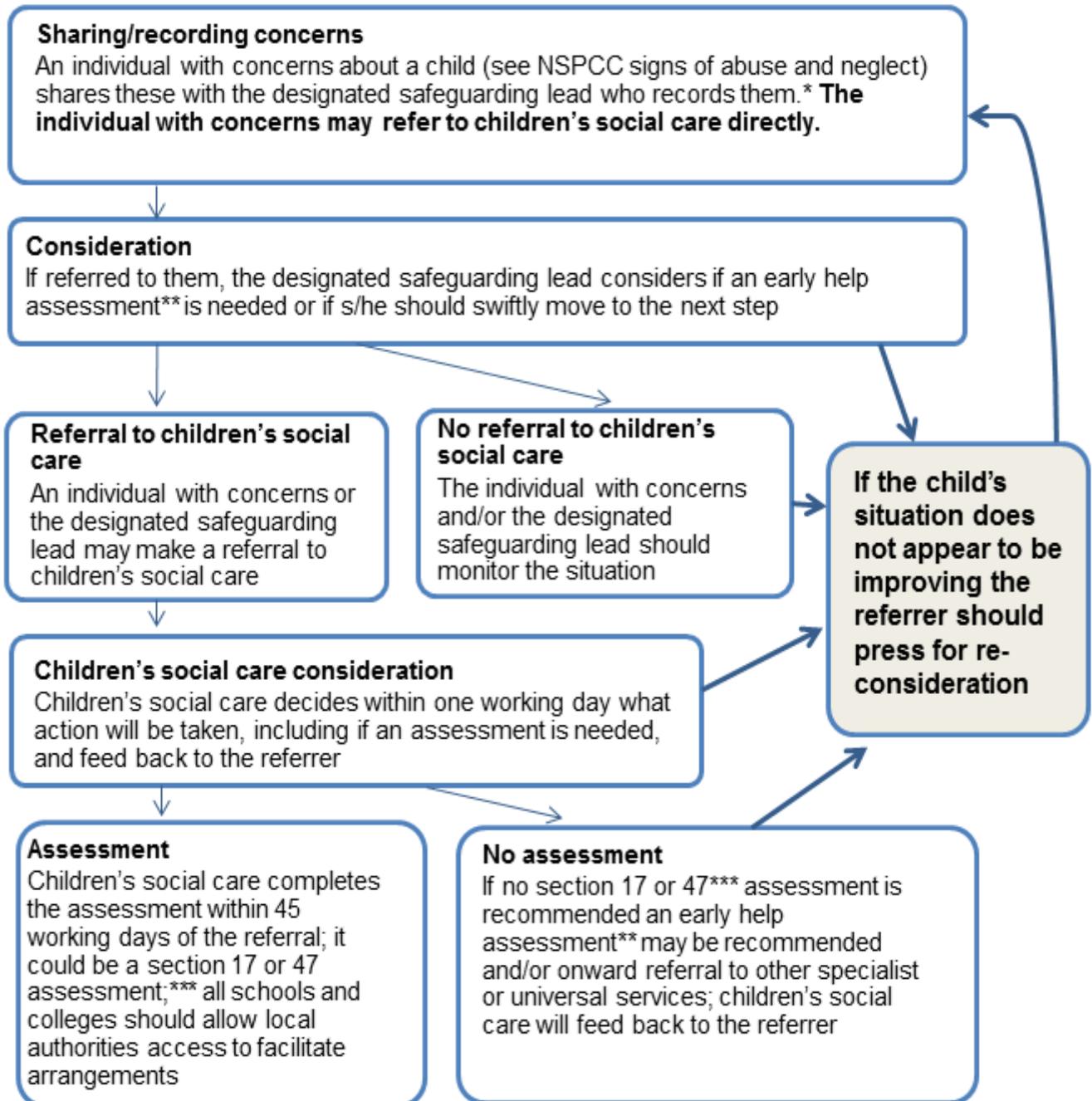
15. Key contacts (May 2017)

Key Contacts at School		
	Name	Phone Number
Acting Head teacher	Nalisha Patel	020 8993 9053
Acting Deputy Head	Steven Cotton	0208 993 9053
Chair of Governors	Mr James Crutchley	School Office
Key Contacts at Local Authority		
	Name	Phone number
Ealing Local Authority Designated Officer (LADO)	Noah Tucker	020 8825 8930
Head of Children's Safeguarding	Sariah Eagle	020 8825 8364
Child Protection Advisers	Child Protection Duty Desk	020 8825 8930
Schools HR	Mark Nelson	020 8825 9478
Schools HR	Sangeeta Jerath	020 8825 8767
Schools HR	Christopher Prowse	020 8825 9261
Schools HR	Maria Stock	020 8825 8190
Ealing Council Children's services	ECIRS	020 8825 8000
Police Child Protection Team		020 8246 1901

Action when a child has suffered or is likely to suffer harm

This diagram illustrates what action should be taken and who should take it when there are concerns about a child. If, at any point, there is a risk of immediate serious harm to a child a referral should be made to children's social care immediately.

Anybody can make a referral.



* In cases which also involve an allegation of abuse against a staff member, see part four of this guidance which explains action the school or college should take in respect of the staff member

** Where a child and family would benefit from coordinated support from more than one agency (eg, education, health, housing, police) there should be an inter-agency assessment. These assessments should identify what help the child and family require to prevent needs escalating to a point where intervention would be needed via a statutory assessment under the Children Act 1989. The early help assessment should be undertaken by a lead professional who could be a teacher, special educational needs coordinator, General Practitioner (GP), family support worker, and/or health visitor.

*** Where there are more complex needs, help may be provided under section 17 of the Children Act 1989 (children in need). Where there are child protection concerns local authority services must make enquiries and decide if any action must be taken under section 47 of the Children Act 1989.