

# Heart of the Forest Community Special School Allegations Management Policy

This policy is firmly based on current legislation and Local Authority guidance, including:

**The Safeguarding Children Handbook (“Live version”- i.e. use online only rather than a printed copy due to regular updating)** issued by the Gloucestershire Safeguarding Children Board.

The policy should be read and deployed in conjunction with the following documents and school policies:

**GSCB Allegations Flowchart.**  
**Keeping Children Safe in Education DFE**  
**Working Together to Safeguard Children DFE**  
**Health & Safety Policy**  
**Complaints Procedure**  
**Child Protection and Vulnerable Adults Policy**  
**Conduct Policy and Procedure**  
**Capability Policy and Procedure**  
**Attendance Policies**  
**Code of Conduct and Confidential Reporting Procedure (Whistleblowing)**

The above list is not exhaustive but when undertaking development or planning of any kind the School will need to consider safeguarding matters. The Governing Body’s legal responsibilities for safeguarding the welfare of children goes beyond basic child protection procedures. The duty is to ensure that safeguarding permeates all activity and functions; hence, the reference to numerous other policies such as those listed above.

## **Introduction**

1. All schools and education settings have a duty to promote and safeguard the welfare of children who are students, and to have regards to guidance issued by the Secretary of State in so doing. In order to undertake this duty schools should ensure that any allegation is dealt with fairly, quickly and consistently, in accordance with the DfE guidance ***Keeping Children Safe in Education***.

The procedure documented within this policy must be followed in any case where it is alleged that a teacher or other member of staff or a volunteer at the school 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 may pose a risk of harm if they work regularly or closely with children. (***Keeping Children Safe in Education***)

All members of staff in the school will be made aware of this policy as part of their induction.

#### **How concerns arise**

2. Concerns about possible abuse of children by staff will usually arise in one of two ways, either;

- A direct allegation by a pupil or third party, for example a parent or carer, volunteer or visitor
- An observation by a member of staff that the behaviour of a colleague is inappropriate or potentially or actually abusive.

In either case the concern must be recorded and reported to the Head Teacher immediately unless the allegations are about the Head Teacher in which case, it must be reported to the Chair of Governors. If the Head Teacher is absent the allegation should be reported to the teacher in charge.

As this is a statutory duty, it is expected that all members of staff in school, where they have concerns, will report them in accordance with this policy.

#### **Initial Action**

3. In order to proceed, the Head Teacher or Chair of Governors will ensure that they have a full understanding of the nature of the allegation made by a member of staff or third party, only speaking to the child if it is unavoidable or it is the child making the allegation.

If the allegation meets the criteria outlined above, or if they are unsure that it does, they must seek advice and support from the Local Authority Designated Officer. (LADO)

No one in the school may investigate the incident. Interviewing either those directly involved or any witnesses could prejudice a fair hearing at a later date.

The Head Teacher or Chair of Governors will simply establish that;

- An allegation has been made
- The general nature of the allegation
- When and where the incident is alleged to have occurred
- Who was involved – including their full name, address and date of birth.
- Any other persons present

The matter will not be discussed with the person who is the subject of the allegation at this stage.

#### **Consultation and Referral**

4. Once the nature of the allegation has been established the Head Teacher or Chair of Governors (Case Manager) should determine if it meets any of the criteria set out in section 1 above. If so the Case Manager should discuss the allegation with the Local Authority Designated Officer (LADO) as soon as possible on the same day. (01452 426 994 or 01452 426565.)

It is important to ensure that even allegations that appear to be less serious are seen to be followed up and taken seriously and that they are examined objectively by someone independent of the school.

If it is unclear whether the thresholds for referral into the LADO process has been reached the Case Manager can consult with the LADO before a formal referral is made.

#### **Initial consideration of the allegation**

5. The purpose of the initial discussion is for the LADO and the case manager to consider the nature, content and context of the allegation and agree a course of action. This will include a discussion to determine whether police involvement is necessary.

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 discussion will establish that the allegation is not demonstrably false or unfounded. If the parents/carers of the child concerned are not already aware of the allegation the LADO will also discuss how and by whom they should be informed.

There may be some circumstances where the school may advise the parents/carers 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.

The 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 case manager and the LADO, and agreement reached on what information should be put in writing to the individual concerned and by whom. The case manager should then consider with the LADO what action should follow both in respect of the individual and those who made the initial allegation.

The case manager will usually inform the accused person about the allegation 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.

If the person is a member of a union or a professional association they will be advised to contact that organisation at the outset.

#### **Strategy Meeting /Evaluation with the police**

6. If the allegation is not demonstrably false or unfounded, a formal referral will be made to the LADO and in accordance with 'Working Together to Safeguard Children 2015' a meeting and strategy discussion will be convened.

There may be up to three strands in the consideration of an allegation:

- a police investigation of a possible criminal offence
- enquiries and assessment under section 47 of the Children Act 1989 if a child is in need of protection or under section 17 of the Children Act 1989 if the child appears to be in need of services
- consideration by the employer of disciplinary action in respect of the individual

The case manager will attend any strategy meeting, unless there are good reasons not to do so, and provide details about the circumstances and context of the allegation and the pupil and member of staff concerned.

There are five defined terms that 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 to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
- **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made

### **Suspension**

7. An assessment of the possible risk of harm to children posed by an accused person must be undertaken and managed. This should be considered in relation to the child or children involved in the allegation, and any other children in the accused individual's home, work or community life. All options to avoid suspension should be considered prior to taking that step.

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

Suspension will be considered in any case where;

- There is cause to suspect a child is at risk of significant harm
- The allegation warrants formal investigation by the police
- There is a likelihood that evidence may be tampered with, or witnesses intimidated
- The allegation is so serious that it might be grounds for dismissal

The case manager will consider carefully whether the circumstances of a case warrant a person being suspended from contact with the children until the allegation is resolved. In deciding whether to suspend a member of staff, the case manager will consider advice given at the strategy meeting and any risk assessments.

**Action where the police or Local Authority investigation is not necessary**

8. If the complaint or allegation is such that;

- It is clear that a criminal and/or child protection enquiries are not necessary, or
- The strategy discussion or initial evaluation decides that is the case

The case manager will discuss the next steps with the LADO. In such circumstances the options open depend on the nature and the circumstances of the allegation and the evidence and information available. The possible outcome will range from taking no further action to conducting formal disciplinary action that could lead to dismissal or a lesser formal warning. If formal action is required the school will follow the procedures laid down in the appropriate policy (Conduct Policy, Capability Policy, Attendance Policies, and/or Grievance Policy)

**Action where police or local authority investigation is necessary**

9. The police or Crown Prosecution Service (CPS) should inform the Case Manager and LADO straight away;

- It is decided to close an investigation without arrest or charge,  
or
- It has been decided not to prosecute after the person has been charged, or
- When a criminal investigation and any subsequent trial is complete

In those circumstances the LADO will discuss in conjunction with the Case Manager, and H.R. representatives whether any further action, including disciplinary action is appropriate and, if so, how to proceed.

**Referral to DfE – Disclosure and Barring Service**

10. 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 should discuss with the Case Manager and their H.R. advisor whether a referral will be made to the DBS for consideration of inclusion on the barred list is required. If the substantiated allegation is in relation to a member of teaching staff it should be considered 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 an individual has engaged in conduct that has harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child. *Keeping Children Safe in Education.***

### **Supporting those involved**

**11.** Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations process. 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.

Access to Occupational Health services including counselling services should be provided and if the person is suspended, the Case Manager should ensure the individual is informed about developments at school.

In relation to an allegation that has been brought by a child, parent or carer, the deliberations of a disciplinary hearing and the information taken into account in reaching a decision will not normally be disclosed, but the parents/carers should be told the outcome. 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 child or children involved may need.

### **Confidentiality**

**12.** Any investigation will be done in confidence. Every effort will be made to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.

No one in the school may 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.

No one in the school may disclose any information to anyone about the details of an investigation, as this may prejudice the right of the person under investigation to a fair hearing.

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 reporting restrictions removed, they should seek legal advice. ***Keeping Children Safe in Education***

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). ***Keeping Children Safe in Education***

### **Resignations and settlement agreements**

**13.** Where a person under investigation tenders his or her resignation, or ceases to provide their services, the investigation into the allegation will still need to be completed in accordance with the guidance.

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 which the person concerned refused to cooperate with the process.

The school will not enter into “settlement agreements” by which if a person agrees to resign, the school agrees not to pursue disciplinary action and both parties agree a form of words to be used in any future reference.

### **Record Keeping**

**14.** If anyone in the school has any concerns regarding the behaviour or conduct of a member of staff, they must record and report the information to the Head Teacher or Chair of Governors.

The Head Teacher/ Chair of Governors will ensure that there is;

- A clear and comprehensive summary of any allegations made
- Details of how the allegation was followed up and resolved
- A note of any action taken and decisions reached 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. At the conclusion of the investigation, if the person under investigation is exonerated, the school will write to the person confirming this, and send a copy to the LADO and place a copy on the person’s personnel file.

Cases in which an allegation was proven to be false, unsubstantiated, unfounded or malicious will not be included in employer references.

Details of allegations that are found to have been malicious should be removed from the personnel records.

### **Timescales**

**15.** The school will endeavour to follow the timescales set out in the guidance for such investigations, as long as it is consistent with a fair and thorough investigation.

However, it is acknowledged that allegations of a serious and complex nature are unlikely to be resolved quickly.

### **Oversight and monitoring**

**16.** The school will work closely with the LADO who has overall responsibility for oversight of the procedures for dealing with allegations.

The school will cooperate in supplying statistical information required by the LADO for DfE returns and Local Safeguarding Children Board monitoring purposes.

### **Action on the conclusion of a case**

**17.** In cases where it is decided in the conclusion of the case that the person who has been suspended can return to work, the school will consider how best to facilitate that.

### **Actions in respect of malicious allegations**

**18.** In the rare event that an allegation is shown to have been deliberately invented or malicious the Head Teacher will consider whether any disciplinary action is appropriate against the person who made it, if they are part of the school community.

The police will be asked to consider whether any action might be appropriate against the person responsible if they are outside the school community.



**Allegations concerning staff not directly employed by the school**

19. In some cases, the school will need to consider an investigation case in which normal disciplinary procedures do not apply, and they may need to act jointly with another organisation. For example, an allegation is made against a supply teacher provided by an employment agency or business or against a person employed by a contractor, or a volunteer provided by a voluntary organisation.

In some cases normal disciplinary procedures may not be appropriate because the person is a volunteer or self-employed.

Although in those cases, the school will not have a direct employment relationship with the individual, the school will cooperate in an investigation, and in reaching a decision about

- whether to continue to use the person's services
- whether to provide the person for work with children in future
- whether to report the person to the DfE

**Date presented to and adopted by**

**Governors:**

**Signed by:** (Chair)

**Date of Policy Review to take place:**