



The Bishop Konstant Catholic Academy Trust

Learning Communities, Inspired by Faith

Allegations Made Against Staff Policy and Procedure

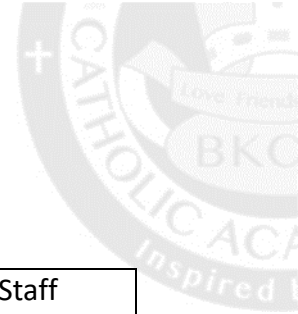
2022 - 2023



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POLICY DOCUMENT	Trust Allegations Made Against Staff 2022
Legislation/Category: Academy Schools	Legally Required
Lead Member of Staff:	Head of HR
Approved by:	Trust Board
Date Approved:	July 2022
Revision Date:	July 2023
Review Frequency:	Annually

All policies are written in line with our ethos:

With Jesus Christ at the centre of the life of the Trust, we seek to provide learning communities offering the highest possible standards of education. We are committed to working in partnership and trust for the common good. We strive to encourage and empower children and young people to recognise and realise their God-given potential and to discern their vocation in life. As learning communities inspired by faith, we celebrate achievement, offering each other challenge and support, as together we follow Christ in self-giving love and service.



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Underlying Principles

1. It is essential that any allegation of abuse made against a member of staff or volunteer is dealt with fairly, quickly and consistently, in a way that provides effective protection for the child, and at the same time supports the person who is the subject of the allegation.
2. Any adult in school, if they receive an allegation against another member of staff / visitor, or if they themselves have concerns about the behaviour of another adult, must report their concern straight away, normally to the Headteacher. In cases where the Head teacher is the subject of the allegation or concern, this must be reported to the CEO and/or the Head of HR. The relevant Local Authority Designated Officer (LADO) will then be contacted for initial advice and guidance in line with the school's safeguarding policy.
3. The welfare of the child is paramount so in all circumstances the initial consideration will be to ensure that no child is at risk of harm.
4. This procedure had been amended to reflect the changes in KCSIE Section Four, which has been broken down into two sections.
 - Section One, allegations which meet the 'harm threshold' and
 - Section Two, allegations which may be deemed as 'low level' concerns.
5. All concerns/allegations (Section One and Section Two) regarding an adult's conduct towards a child are taken seriously by the Trust and will be investigated as necessary, following the advice of the Head of HR, the LADO and/or other external agencies as required.
6. Any cases of suspected abuse or concerns (including low level concerns as referred to in Section Two of this procedure and KCSIE) regarding conduct towards a child must be immediately referred to the Headteacher or Designated Safeguarding Lead (DSL). The Local Authority Designated Officer (LADO) in children's social care and take the appropriate action in relation to the safety of the child, as advised. Dependent upon the nature of the allegation it may be necessary to immediately contact the Police.
7. The Headteacher will discuss the nature, content and context of any allegation(s) or concerns, with the LADO (or/and the Police) and agree a course of action in relation to investigating the allegations made against the person and supporting them throughout the process.
8. It is not a member of staff's responsibility to make a judgement on the seriousness of a concern regarding an adult's conduct towards a child. It is a member of staff's responsibility to report ALL concerns to those as identified in Paragraph 5 above,



who will then make a judgement on the level of concern and the required action, consulting with the LADO and other external agencies where deemed appropriate.

9. A single low level concern or a pattern of low level concerns, upon investigation, may reach the 'harms threshold' as outlined in Section One of this policy. Where this is the case, the Headteacher will liaise with the LADO and the steps within Section One of this policy will be followed.
10. The Headteacher will maintain appropriate secure records with regards to any allegations/concerns, as outlined in this procedure.
11. It is rare for a child to make an entirely false or malicious allegation, although misunderstandings and misinterpretations of events can and do happen. A child may also make an allegation against an innocent party because they are too afraid to name the real perpetrator. Even so, we must accept that some professionals do pose a serious risk to children and therefore we must take appropriate action when an allegation/concern is raised.
12. Staff who are the subject of an allegation have the right to have their case dealt with fairly, quickly and consistently and to be kept informed of its progress. Suspension should not be automatic response when an allegation is reported and all options to avoid suspension should be considered prior to any decision to suspend. However, in some cases, staff may be suspended where this is deemed necessary to ensure that children are protected and in line with the Disciplinary Policy and Procedure.

Section one: Allegations that may meet the 'harms threshold'

13. Section One of the guidance relates to managing allegations that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children in their present position, or in any capacity. It should be used in respect of all cases in which it is alleged that a member of staff (including volunteers, student teachers, contractors, supply staff and regular visitors) in an individual school that provides education for children/young person has met the harm test.

The Harms Threshold includes where an adult has:

- behaved in a way that has harmed a child, or may have harmed a child and/or;
- possibly committed a criminal offence against or related to a child and/or;
- behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children and or;
- behaved or may have behaved in a way that indicates they may not be suitable to work with children.

This includes behaviour that may have happened outside of the school, that might make an individual unsuitable to work with children, this is known as transferable risk.



14. Where appropriate an assessment of transferable risk to children with whom the person works should be undertaken. Any concerns of this nature should be reported immediately to the Headteacher or in their absence the DSL Lead.
15. Consideration must be given immediately by the Headteacher/ DSL as to whether the child is safe to be in the establishment/school. Initially, considerations will need to be discussed to see if adjustments can be made to ensure that the child does not come into contact with the employee/adult against whom the allegation has been made. These considerations must then be discussed with the LADO and parent/carers when deemed appropriate.
16. If an allegation is made against a member of staff or another adult the quick resolution of that allegation should be a clear priority to the benefit of all concerned, unless the allegation falls within the remit of the Police in which cases a quick resolution may not be possible as initially the matter will be considered/investigated by them. In employment generally, an employer does not have to wait for the police to complete their investigations before taking action against an employee. However, this needs to be managed in partnership with other agencies and it is recommended that HR advice is sought. It is also worth noting that the outcome of a disciplinary process will not necessarily agree with the outcome of criminal proceedings due to different measures of evidence, and thresholds for criminal and disciplinary findings.
17. The Trust has a duty of care to our employees. We will ensure that staff who are facing an allegation are provided with effective support and provide a named contact if they are suspended. It is essential that any allegation of abuse made against a member of staff or another adult in the school is dealt with very quickly, in a fair and consistent way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation.
18. If the allegation is not against a member of Trust staff but against another adult then a decision should be taken on whether or not to restrict the adult from activities within the Trust.
19. Allegations against a member of staff who is no longer employed by the MAT should be referred to the police and/or the LADO.
20. If it is necessary to take written statements from student witnesses, dependent upon the concern raised, this must be done as soon as possible by a senior member of staff. Consideration must be taken as to the ability of the student to make a statement, in view of their age and any additional needs. Any concerns with regards to the student must be discussed ahead of a statement being taken. The senior member of staff taking the statement from the student may choose to write the statement for the student if necessary. Where this is applied the statement must be written in the words of the student and the student must then sign and date their



statement. Whilst there is no requirement to seek parent/carer permission to take a statement, consideration should be taken where we have concerns in relation to the student's ability or welfare. Consideration should also be given to whether it would be appropriate to advise the parent/carer that a statement has been taken, without divulging any confidentiality. At no stage would a copy of a written statement holding 'special category data', which could present a safeguarding risk, be issued to a parent or carer unless permission is given by the LADO and other relevant authorities.

21. If the matter is referred to the Disciplinary Policy and Procedure to be investigated, consideration needs to be taken by the Investigative Officer as to whether or not it is necessary to re-interview the student(s), this should only happen in exceptional circumstances where deemed necessary. The Trust Disciplinary Policy and Procedure will be followed.
22. Allegations that are found to be malicious should be removed from personal file records; however, for all other allegations (including low level concerns), it is important that a clear and comprehensive summary of the allegation(s)/concern, details of how the allegation(s)/concern was followed up and resolved, and a note of any action taken and decisions reached, with a copy of any formal outcome letters on the employee's personal file. A copy of all records will be kept in a confidential file held securely within the HR team.
23. The purpose of these records are 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 resurfaces after a period of time.
24. The MAT has an obligation to preserve records which contain information about allegations of sexual abuse for the Independent Inquiry into Child Sexual Abuse (IICSA), for the term of the inquiry (further information can be found on the IICSA website).
25. Students that are found to have made malicious allegations are likely to have breached MAT behaviour policies. The individual school should therefore consider whether to apply an appropriate sanction in line with the Disciplinary Policy and Procedure (as well as referral to the police if there are grounds for believing a criminal offence may have been committed).



Initial response to an allegation

26. Where the it has been identified that a child has been harmed, that there may be an immediate risk of harm to a child or if the situation is an emergency, they should immediately contact the Headteacher/ DSL/ LADO.
27. Before contacting the LADO/Police, the school may conduct basic enquiries in line with local procedures to establish the facts to help them determine whether there is any foundation to the allegation, being careful not to jeopardise any future police investigation.
28. The school should not carry out any formal investigation or directly interview an individual about whom there is a concern until the above process has been duly completed and relevant partners (where deemed necessary) are consulted.
29. There are two aspects to consider when an allegation is made:
 1. Looking after the welfare of the child - the designated safeguarding lead is responsible for ensuring that the child is not at risk and will refer cases of suspected abuse to the local authority children's social care as outlined in Part One of Keeping Children Safe in Education.
 2. Investigating and supporting the person subject to the allegation – the Headteacher will discuss with the LADO, the nature, content and context of the allegation, and agree a course of action.
30. When dealing with allegations, the Trust will:
 - apply common sense and judgement;
 - deal with allegations quickly, fairly and consistently; and
 - provide effective protection for the child and support the person subject to the allegation.
31. Many cases may not meet the criteria for the harms threshold, 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. The Trust's Disciplinary Policy also details the procedure to be followed.
32. In the first instance, the Headteacher/ DSL, should discuss the matter with the Head of HR, and a decision made when to discuss with the LADO. The purpose of an initial discussion is for the LADO to consider the nature, content and context of the allegation and agree a course of action. The LADO may ask to provide or obtain relevant additional information, such as previous history, whether the child or their family have made similar allegations previously, the employee/adult's role/current contact with children, and if there are any previous concerns in relation to the employee/adult. There may be situations when the Headteacher/ DSL will want 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, a discussion should be made with the LADO in order to help determine whether police involvement is necessary.

33. The Headteacher/ DSL should inform the individual about the allegation(s) after seeking guidance from the LADO.
34. If there is cause to suspect a child is suffering or is likely to suffer significant harm, the LADO may request that a strategy/allegations meeting is required, in accordance with the statutory guidance Working Together to Safeguard Children, prior to the accused person being notified. Where a strategy/allegations meeting is needed, or police or children's social care services need to be involved, the member of staff/adult, should not be given detailed information until those agencies have been consulted, and have agreed what information can be disclosed to the accused. If the allegation is about physical contact, the strategy/allegation meeting 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.
35. Where there is a concern about the welfare of other children in the community or the member of staff's family, these concerns should be discussed in the school with the designated safeguarding lead and a risk assessment made of the situation. It may be necessary for the DSL lead to make a referral to children's social care.

No further action

36. 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 the Headteacher, the Head of HR and the LADO, and agreement reached on what information should be put in writing to the individual concerned and by whom.
37. Where the initial discussion leads to no further action, the Headteacher, Head of HR and the LADO should:
 - record the decision and justification for it; and
 - agree on what information should be put in writing to the individual concerned and by whom (if deemed necessary).

Further enquiries

38. Where it is clear that an investigation by the police or children's social care services is unnecessary, or the strategy/allegations meeting or initial evaluation decides that is the case, the LADO should discuss the next steps with the Headteacher or Head of HR. In those circumstances, the options open to the Trust will depend on the nature and circumstances of the allegation and the evidence and information available. This



will range from taking no further action to using the Trust Disciplinary Policy and Procedure to investigate which could lead to an informal or formal outcome, a dismissal or a decision not to use the adult/person's services in future.

39. If the matter is referred back to the Trust to investigate, the Disciplinary Policy and Procedure will be used in liaison with the Head of HR/Headteacher/Chief Executive Officer/ Chair of the Trust as appropriate and depending on the circumstances.
40. Where further enquiries are required to enable a decision about how to proceed, the LADO and Headteacher should discuss how and by whom the investigation will be undertaken.
41. The Headteacher/ Head of HR will monitor the progress of the case to ensure that they are dealt with as quickly as possible in a thorough and fair manner. Reviews will be conducted on a regular basis, depending on the complexity of the case.
42. Wherever possible, the first review should take place no later than 20 working days after the initial assessment. Dates for subsequent reviews, should be set at the review meeting if the investigation continues.

Supply teachers, contractors and other adults not employed by the Trust

43. There may be situations where the Trust will have to address an allegation against an individual they do not directly employ. In such circumstances, whilst such individuals are not employed by the Trust, they fall under our supervision when working in the school, therefore we will ensure that allegations are acted upon properly. However, Trust disciplinary procedures will not apply therefore any disciplinary action resulting from such cases will ultimately need to be taken under the policies and procedures of the recruitment agency or other business.
44. Agencies/businesses will be fully involved and will be expected to co-operate with any enquiries from the LADO, police and/or children's social care in line with KCSIE. However, the Trust will usually take the lead when allegations are initially received within the Trust collecting the facts, and passing this information to the agency/business in order for them to take the appropriate action.
45. In the event of an allegation being raised, the adult should be advised by the Trust to contact their trade union representative if they have one, or a colleague for support. A decision to cease to use the adult's services due to safeguarding concerns should not be made without finding out the facts and consulting with the LADO.
46. The Headteacher will discuss with the supply agency/business (as applicable)



whether it is appropriate for the agency/business to suspend the adult (where they are their employee), or whether it may be possible redeploy them to another part of the Trust, whilst the matter is being addressed.

47. Where the individual is working for a number of agencies/businesses or across a number of educational establishments it will be necessary for the Trust to inform the LADO in order that any appropriate action can be taken in relation to their having contact with children in other settings. If an allegations management meeting is deemed necessary by the LADO this will address issues such as information sharing, to ensure that any previous concerns or allegations known to the agency or agencies are taken into account.
48. The Trust will inform the agency of its process for managing allegations but take account of the agency's policies and their duty to refer to the DBS as personnel suppliers. This should include inviting the agency's HR Manager or equivalent to meetings (where required) and keeping them up to date with information about its policies.

Trust Board Members, Trustees and Governors

49. If an allegation is made against a member of the Trust Board or a local Academy Council whether they are a Trustee or a Governor, the Trust will follow their own local procedures. Where an allegation is substantiated, they should follow the procedures to consider removing them from office, and inform the LADO and other external agencies as necessary.

Suspension

50. 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. Careful consideration must be given as to whether the circumstances warrant suspension from contact with children until the allegation is resolved.
51. In all cases advice should be taken from the Head of HR before any decision is made with regards to suspension which should be considered in line with the Trust Disciplinary Policy and Procedure.
52. Suspension should be considered only in cases where there is cause to suspect a child is at risk of harm, or where the case is so serious that it might be grounds for dismissal.
53. Where the Trust is made aware that the Secretary of State has made an interim prohibition order, in respect of an individual, we will take immediate action to ensure the individual does not carry out work in contravention of the order. This means that pending the findings of the TRA investigation, the



individual must not carry out teaching work.

54. In many cases, matters can be resolved quickly without the need for suspension. The Headteacher in consultation with the Head of HR will decide on whether the individual should continue to remain in work based on consultation with the LADO who will provide relevant information they have received from the police or children's social care.
55. The following alternatives may be considered by the Headteacher, Chief Executive Officer and the Head of HR before suspending a member of staff:
- redeployment within the Trust so that the individual does not have direct contact with the child or children concerned;
 - ensuring another member of staff is present or providing an assistant to be present when the individual has contact with children;
 - redeploying to alternative work in the Trust 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 (this decision should only be made if it is in the best interest of the child or children concerned and takes accounts of their views. It should be made 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 partner organisation.
56. These alternatives allow time for an informed decision to be made regarding the suspension, this will, however, depend upon the nature of the allegation. The Chief Executive Officer/Chair of the Trust/Head of HR should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unfounded, unsubstantiated, malicious, or false.
57. If immediate suspension is considered necessary, the Head of HR should record the rationale and justification for such a course of action.
58. Where it has been deemed appropriate to suspend the person, written confirmation should be given to them within one working day, or as soon as reasonably possible, giving as much detail as appropriate for the reasons for the suspension without prejudicing the investigation.
59. The person who is suspended must be supported throughout the course of the investigation. 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.
60. Children's social care or the Police may give their view to the LADO but they cannot



require the Trust to suspend a member of staff or a volunteer, although the Trust should give appropriate weight to their views. The power to suspend is vested in the Trust. However, where a strategy discussion, or initial assessment, concludes that there should be enquiries by the children's social care, and/or an investigation by the police, the LADO should canvass police and children's social care for views about whether the accused member of staff should be suspended from contact with children.

61. 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 about whether the person poses a risk of harm to children.

Supporting those involved

Duty of care

62. The welfare of the child is paramount and this will be the prime concern in terms of investigating an allegation against a person in a position of trust. However, when an allegation or safeguarding concern is being investigated it is likely to be a very stressful experience for the adult subject of the investigation, and potentially for their family members. The Trust will offer appropriate welfare support to employees at such a time and recognise the sensitivity of the situation. Information is confidential and will not ordinarily be shared with other staff or with children or parents who are not directly involved in the investigation.

63. In line with our duty of care to our employees we will aim to:
- manage and minimise the stress caused by the allegation;
 - inform the individual as soon as possible, explaining the likely course of action, guided by the LADO, and the police where necessary;
 - advise the individual to contact their trade union representative, or a colleague for support;
 - appoint a named representative to keep the person informed about progress of the case;
 - provide access to counselling, medical or occupational health advice where appropriate;
 - not prevent social contact with work colleagues and friends, when staff are suspended, unless there is evidence to suggest this may prejudice the gathering of evidence.
64. Parents or carers of the child or children involved should be:
- formally told about the allegation as soon as possible. The LADO and where involved children's social care and/or the Police will be consulted on what information can be disclosed;



- kept informed about the progress of the case, only in relation to their child - no information can be shared regarding the staff member; and
- made aware of the requirement to maintain confidentiality and unwanted
Publicity about any allegations made against teachers in schools whilst investigations are in progress, as set out in Section 141F of the Education Act 2002

65. Parents or carers should be told if the matter is to be investigated in line with the Disciplinary Policy and Procedure, where no criminal proceedings are being pursued. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, would not be normally be disclosed to the parents, but if it is deemed necessary then they can be told the outcome in confidence. The Head of HR will provide advice in this respect.
66. Any students who have been the subject of an allegation should be supported within the school by an allocated member of the Leadership/Pastoral Team. Where deemed appropriate external agencies should be involved.
67. 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.
68. Where a student is involved in an allegation due to being a witness, again support will be given.
69. The Trust will make consideration of any siblings of the victim who may be on roll at the school to provide support where necessary.

Confidentiality and Information sharing

70. In an allegations management meeting or during the initial assessment of the case, the Trust and those agencies involved will share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.
71. Where the Police are involved, where appropriate and possible the Trust should ask the Police to obtain consent from the individuals involved to share their statements and evidence for use in the Trust's disciplinary process. This should be done as their investigation proceeds and will enable the Police to share relevant information without delaying the conclusion of their investigation or any court case.
72. Children's social care should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are in need of 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 Trust without delay.

73. The Trust will make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2011 amended the Education Act 2002, to introduce reporting restrictions. These provisions made it an offence (except in the limited circumstance expressly permitted by the legislation), for any person to publish any material that may lead to the identification of a teacher in a school who has been accused by, or on behalf of, a child from the same school (where that identification would identify the teacher as the subject of the allegation).
74. The reporting restrictions shall apply until:
- the point that the accused person is charged with a relevant offence; or
 - the Secretary of State¹²² or the General Teaching Council for Wales publishes information about an investigation or decision in a disciplinary case arising from the allegation.
75. The reporting restrictions are disapplied 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 court lifts the reporting restrictions in response to a request to do so.
76. The legislation prevents the 'publication' of material by any person that may lead to the identification of the teacher who is the subject of the allegation. '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/carer 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 circumstances where the Trust needs to make parents/carers aware about an allegation, they should make parents/carers and others aware of the need for confidentiality to protect the child/children and that there are restrictions on publishing information bound by Law. However, the Trust cannot be held responsible for the parent/carers actions.
77. In accordance with the Authorised Professional Practice published by the College of Policing in May 2017, 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 wish 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.



78. The CEO or the Head of HR should take advice from the LADO, Police and children's social care to agree the following:
- who needs to know and 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.

Allegation Outcomes

79. In accordance with the Disciplinary Policy and Procedure, the options open to the Trust depend on the nature and circumstances of the allegations and the evidence and information available. This will range from taking no further action, an informal or formal warning, a dismissal or a decision not to use the person's services in future.
80. The following definitions would be used when determining the outcome of allegation investigations following the BKCAT Disciplinary Policy and Procedure:
- **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 or cause harm to the person who is the subject of the allegation
 - **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 Allegations that are substantiated where the BKCAT Disciplinary Policy and Procedure is applied.
81. If the allegation is substantiated and:
- the person is dismissed; resigns, or otherwise ceases to provide his or her services; or
 - the employer ceases to use the person's services.
82. There is a legal requirement for employers to make a referral to the DBS where they consider 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. The DBS will then make consideration of whether inclusion on the barred lists is required.
83. If the person resigns during an investigative process (criminal or disciplinary) the employer has a duty to report this to the DBS through a referral.
84. Non-compliance of this duty is a criminal offence.
85. The DBS will consider whether to bar the person. Referrals should be made as soon as possible after the resignation or removal of the individual. The Head



of HR will make this referral to the DBS.

86. In the case of a member of teaching staff the Trust must consider whether to Refer the matter to the TRA to consider prohibiting the individual from teaching.
87. For further details on managing the situation and exit arrangements refer to DfE guidance: Keeping Children Safe in Education DfE Statutory guidance Criminal investigation or a prosecution.
88. The Police should inform the LADO and the Trust immediately when:
 - a criminal investigation and any subsequent trial are complete,
 - it is decided to close an investigation without charge, or
 - it is decided not to continue to prosecute after the person has been charged.
89. In those circumstances, during the joint assessment meeting the LADO should discuss with the Head of HR whether any further action, including disciplinary action, is appropriate and, if so, how to proceed. The information provided by the police and/or children's social care should also inform that decision. The options will depend on the circumstances of the case and the consideration should take into account the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

Unsubstantiated, unfounded, false or malicious allegations

90. If an allegation is determined to be unsubstantiated, unfounded, false or malicious, the LADO and the Head of HR should consider whether the child and/or the person who has made the allegation is in need of help or may have been abused by someone else and this is a cry for help. In such circumstances, a referral to children's social care may be appropriate.
91. If a report is determined to be unsubstantiated, unfounded, false or malicious, the designated safeguarding lead should consider whether the child and/or the person who has made the allegation is in need of help or may have been abused by someone else and this is a cry for help. In such circumstances, a referral to children's social care may be appropriate. If a report is shown to be deliberately invented or malicious, the Trust will consider whether any disciplinary action is appropriate against the individual who made it in line with the relevant policy.



Returning to work

92. Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the Head of HR and the Headteacher should consider how best to facilitate this. Most employees 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 provide assistance and support in the short term may be appropriate. The Head of HR should also consider how the person's contact with the child or children who made the allegation can best be managed if they are still attending the school.

Resignations and 'settlement agreements'

93. Settlement 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, where there are allegations that indicate the person is a risk or poses a risk of harm to children or deemed not suitable to work with children. Such an agreement will not prevent a thorough police and/Trust investigation where that is appropriate.

94. The Trust will not cease the investigations if the person leaves, resigns or ceases to provide their services. 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.

95. Wherever possible, the accused should be given full opportunity to answer the allegation and make representations about it. The process of recording the allegation and any supporting evidence and reaching a judgement about whether it can be substantiated or otherwise on the basis of 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 an outcome wherever possible. The person concerned should be notified of the conclusion of the allegations and sanctions that might be posed.

96. Other than where allegations are false, malicious, unsubstantiated, or unfounded, the outcome should be made clear when providing references to prospective employers. This is particularly important where the person moves into another position involving working with children.

97. It is not appropriate to reach a settlement agreement if the person subject to the allegation resigns or their services cease to be used. In limited circumstances the Trust may sometimes use settlement agreements to end the employment



relationship on agreed terms, but not where there is an allegation that the individual poses a risk to children.

98. Where a settlement agreement is used, the Trust will not let it prevent the employer

from:

- fulfilling their legal duty to refer cases to the DBS where the referral criteria are met. – Non-compliance of this duty is a criminal offence; or
- providing a reference to potential employers when requested; or
- considering whether to make a referral to the Teaching Regulations Agency where the criteria are met Record keeping

99. The Trust will keep records in accordance with GDPR and KCSIE.

100. Details of allegations following an investigation that are found to have been malicious or false should be removed from personnel records. For all other allegations HR maintains a confidential secure record which includes:

- a clear and comprehensive summary of the allegation;
- details of how the allegation was followed up and resolved;
- a note of any action taken, and decisions reached, and the outcome as categorised above;
- A copy of any formal disciplinary outcome letter or informal management instruction will be held of the member of staff's personal file (for the term required in line with the Disciplinary Policy and Procedure) as required;
- a copy provided to the person concerned, where agreed by children's social care or the police; and,
- a declaration on whether the information will be referred to in any future reference.

101. The purpose of the record is to enable accurate information to be given in response to any future request for a reference. 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.

102. The Trust has an obligation to preserve records which contain information about allegations of sexual abuse for the Independent Inquiry into Child Sexual Abuse (IICSA), for the term of the inquiry (further information can be found on the IICSA website). All other records 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.



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

References

104. Cases in which an allegation was proven to be false, unfounded, unsubstantiated or malicious should not be included in employer references. Any repeated concerns or allegations which have all been found to be false, unfounded, unsubstantiated or malicious should also not be included in any reference. Substantiated allegations should be included in references provided that the information is factual and does not include opinions.

Learning lessons

105. Throughout the process in handling allegations and at conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the Headteacher/ Head of HR to determine whether there are any improvements to be made to the Trust's procedures to help prevent similar events in the future where the matter is related to the Trust. This should include issues arising from any decision to suspend the member of staff, the duration of the suspension and whether or not suspension was justified.
106. For all other cases the Headteacher/ CEO/Head of HR should consider the facts and determine whether any improvements can be made.

Historical allegations

107. Where an adult makes an allegation to the Trust that they were abused as a child, the individual should be advised to report the allegation to the Police. Non recent allegations made by a child, should be reported by the relevant Headteacher to the LADO in line with the local authority's procedures for dealing with non-recent allegations. The LADO will coordinate with children social care and the police. Abuse can be reported no matter how long ago it happened.



Section Two: Concerns that do not meet the harms threshold: Low Level

108. The Trust will deal with concerns (including allegations) which do not meet the harms threshold set out above which follow KCSIE. Concerns may arise in several ways and from a number of sources. For example: suspicion; complaint; or disclosure made by a child, parent or other adult within or outside of the organisation; or as a result of vetting checks undertaken. It is important that the Trust has appropriate policies and processes in place to manage and record any such concerns and take appropriate action to safeguard children.
109. As part of the Trust's approach to safeguarding, the Trust will ensure that they promote an open and transparent culture in which all concerns about all adults working in or on behalf of the Trust (including supply teachers, volunteers, other adults and contractors) are dealt with promptly and appropriately.
110. The Trust will maintain a culture in which all concerns about adults (including allegations that do not meet the harms threshold) are shared responsibly and with the right person, recorded and dealt with appropriately, is critical. If implemented correctly, this should encourage an open and transparent culture; enable academies/schools to identify concerning, problematic or inappropriate behaviour early; minimise the risk of abuse; and ensure that adults working in or on behalf of the Trust are clear about professional boundaries and act within these boundaries, and in accordance with the ethos and values of the institution. What is a low level concern?
111. The term 'low-level' concern does not mean that it is insignificant, it means that the behaviour towards a child does not meet the harms threshold. A low-level concern is a concern – no matter how small, and even if no more than causing a sense of unease or a 'nagging doubt' - that an adult working in or on behalf of the Trust may have acted in a way that:
- is inconsistent with the Trust's Staff Code of Conduct, the ICT and E-Safety Policy, the Safeguarding and Child Protection Policy, and/or the Teacher Standards including inappropriate conduct outside of work, and
 - does not meet the allegations threshold or is otherwise not considered serious enough to consider a referral to the LADO.
112. Examples of such behaviour (KCSIE Sept 2021) could include, but are not limited to:
- being over friendly with children;
 - having favourite children;
 - engaging with a child on a one-to-one basis in a secluded area or behind a closed door; or,
 - using inappropriate, intimidating or offensive language towards children.



113. Such behaviour can exist on a wide spectrum, from the inadvertent or thoughtless, or behaviour that may look to be inappropriate, but might not be in specific circumstances, through to that which is ultimately intended to enable abuse.
114. It is crucial that any such concerns, including those which do not meet the allegation/harm threshold (KCSIE), are shared responsibly and with the right person and recorded and dealt with appropriately in line with Trust Policy and Procedure. Ensuring they are dealt with effectively should also protect those working in or on behalf of the Trust from potential false allegations or misunderstandings.
115. The Headteacher in discussion with the Head of HR may deem it appropriate for a formal investigation to be applied, to investigate low level concerns. If applicable, the Trust Disciplinary Policy and Procedure will be followed.

The Trust Code of Conduct

117. The purpose of this policy is to create and embed a culture of openness, trust and transparency in which the Trust's values and expected behaviour which are constantly lived, monitored and reinforced by all staff.
118. The Trust will ensure the Staff Code of Conduct, behaviour policies and safeguarding policies and all related procedures are implemented effectively, and ensure appropriate action is taken in a timely manner to safeguard children and facilitate a whole Trust approach to dealing with any concerns.
119. The Trust will ensure through policies, training, induction and regular briefings that all staff are made aware of their professional responsibilities to report ALL low-level concerns regarding an adult's conduct towards a child/children, as outlined in this procedure.
120. The Trust enacts the purpose of their low-level concerns section of this policy by:
- ensuring staff are clear about what appropriate behaviour is, and are confident in distinguishing expected and appropriate behaviour from concerning, problematic or inappropriate behaviour, in themselves and others;
 - ensuring that staff are clear that concerns around their personal and professional conduct in relation the safeguarding, may lead to Disciplinary action;
 - empowering staff to share any low-level safeguarding concerns with the Headteacher, DSL Lead, Head of HR (or CEO/Chair of the Trust if necessary);
 - addressing unprofessional behaviour and supporting the individual to correct it at an early stage;
 - providing a responsive, sensitive and proportionate handling of such concerns



when they are raised;

- the Headteacher will investigate ALL reported low-level concerns in accordance with this policy seeking advice from the LADO as deemed appropriate, helping identify any weakness in the Trust's safeguarding systems.

Sharing low-level concerns

121. Low-level concerns about a member of staff should be reported as outlined above. Where a low-level concern is raised about one of these professionals it should be referred upwards.
122. The Trust has created an environment where staff are encouraged and feel confident to self-refer, where, for example, they have found themselves in a situation which could be misinterpreted, might appear compromising to others, and/or on reflection they believe they have behaved in such a way that they consider falls below the expected professional standards.
123. Where a low-level concern relates to a person employed by a supply agency, a contractor, a regular visitor, a volunteer or another adult that concern should be shared with the Headteacher, the DSL Lead and the Head of HR and recorded in accordance with this policy and their employer (where applicable) notified about the concern, so that any potential patterns of inappropriate behaviour can be identified.

Recording low-level concerns

124. All reported low-level concerns should be recorded in writing by the Headteacher /DSL. The record should include details of the concern, the context in which the concern arose, and action taken. The name of the individual sharing their concerns should also be noted, if the individual wishes to remain anonymous then that should be respected as far as reasonably possible.
125. The Headteacher/DSL/ Head of HR may choose to refer to the LADO for advice if appropriate.
126. The Trust will ensure that all such records are kept confidential, held securely and comply with the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR).
127. Records should be reviewed by the Headteacher so that potential patterns of concerning, problematic or inappropriate behaviour can be identified. Where a pattern of such behaviour is identified, the Trust will decide on a course of action, either through the Disciplinary Procedures or where a pattern of behaviour moves from a concern to meeting the harms threshold, in which case it will be referred to the LADO. Consideration should also be given to whether there are wider cultural



issues within the Trust that enabled the behaviour to occur and where appropriate policies could be revised or extra training delivered to minimise the risk of it happening again.

128. The Trust will retain such information at least until the individual leaves their employment or for longer where deemed appropriate dependent upon action taken.



Appendix: Managing Allegations Flowchart

