

ALLEGATIONS AGAINST STAFF POLICY

Date: September 2021

This Policy links to the following Policies:

- Safeguarding Policy
- Complaints Policy
- Behaviour Management Policy

Introduction

All schools and education settings have a duty to promote and safeguard the welfare of children who are students.

Proprietors should ensure there are procedures in place to manage concerns/allegations, against staff (including volunteers) that might indicate they would pose a risk of harm to children.

The procedure documented within this policy must be followed in any case where it is alleged that a 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;
- Behaved towards a child or children in a way that indicates that he or she may pose a risk of harm to children; or
- Behaved or may have behaved in a way that indicates they may not be suitable to work with children.

All staff members in the School will be asked to sign to say that they have read and understood the policy.

All staff will receive refresher training annually.

New members of staff will receive this training as part of their induction.

How concerns arise

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

- A direct allegation by a child or third party, for example a parent;

- 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 Headteacher immediately unless the allegations are about the Headteacher in which case, it must be reported to the Nominated Safeguarding Governor. Where there are concerns about the Headteacher and/or the Nominated safeguarding governor, staff must inform the proprietor.

Where there are safeguarding concerns to a child, the schools safeguarding procedures must be followed please read the Safeguarding Policy. All safeguarding concerns must be shared with the DSL/DDSL.

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

Initial Action

In order to proceed, the Headteacher 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.

No other person in the school should investigate the incident. Interviewing either, those directly involved or any witnesses could prejudice a fair hearing at a later date.

The Headteacher will 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.

This information can be recorded on the initial record of concern sheet.

Allegations against a member of staff who is no longer working at the school should be referred to the police. Historical allegations of abuse should also be referred to the DOFA (Wiltshire) and/or the police.

Consultation and Referral

Once the nature of the allegation has been established, the Headteacher/DSL or nominated person (Safeguarding Governor) should discuss the allegation with the Designated Officer for Allegations (DOFA) on the same day.

It is important to ensure any allegation is taken seriously.

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

At this stage advice should be sought from the DOfA with regards to informing the person subject to the allegation, that an allegation has been made.

Initial consideration of the allegation

The purpose of the initial discussion is for the DOfA and the Headteacher 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 discussion may 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 DOfA 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 and requires medical treatment.

The Headteacher will usually inform the individual about the allegation as soon as possible after consulting with the DOfA. However, where a strategy discussion is needed, the decision to inform the individual 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.

Once the individual has been informed of the allegation, and if they are a member of a union or a professional association, they will be advised to contact that organisation.

Strategy Meeting /Evaluation with the police

If the allegation is not demonstrably false or unfounded, a formal referral will be made to the DOfA and in accordance with 'Working Together to Safeguard Children 2018' 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 enquiry and assessment under section 47 of the Children Act 1989 if a child is in need of protection;
- A police investigation of a possible criminal enquiry and assessment 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 Headteacher will attend any strategy meeting, and provide details about the circumstances and context of the allegation and the child and member of staff concerned.

There are five defined terms 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;
- **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made.

Suspension

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. Suspension should not be an automatic response when an allegation is reported; all options to avoid suspension should be considered prior to taking that step.

If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take into account that 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 Headteacher will consider carefully whether the circumstances of a case warrant a person being suspended from contact with the children until the allegation is resolved.

Appropriate steps must be taken to safeguard the children prior to the Strategy Meeting.

In deciding whether to suspend a member of staff, the Headteacher will consider advice given at the strategy meeting and any risk assessments.

Based on assessments of risk, the following alternatives should be considered by the Headteacher before suspending a member of staff:

- Redeployment within Meadowpark so that the individual does not have direct contact with the child or children;
- Providing an assistant to be present when the individual has contact with children;
- Redeploy to alternative work in Meadowpark so that 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.

Action where the police or Local Authority investigation is not necessary

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 Headteacher will discuss the next steps with the DOfA.

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.

Action where police or Local Authority investigation is necessary

The police or Crown Prosecution Service (CPS) should inform the Headteacher, Proprietor and DOfA straight away if;

- It is decided to close an investigation without arrest or charge;
- 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 DOfA will discuss in conjunction with the Headteacher whether any further action, including disciplinary action is appropriate and, if so, how to proceed.

Referral to DfE - Disclosure and Barring Service

If the allegation is substantiated and the person is dismissed, the school ceases to use the person's services, the person resigns, or otherwise ceases to provide his or her services, the DOfA should discuss with the Headteacher whether a referral will be made to the DBS for consideration of inclusion on the barred list is required.

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.

Supporting those involved

Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations process. The Headteacher 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 Headteacher should ensure the individual is informed about developments at the 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

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

Parents and carers should also be made aware of the requirement to maintain confidentiality about any allegations made against staff whilst investigations are ongoing as set out in section 141F of the Education Act 2002. If parents or carers wish to apply to the court to have reporting restrictions removed, they should seek legal advice.

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.

The legislation imposing restrictions makes clear that “publication” of material that may lead to the identification of the member of staff 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 member of staff by members of the public).

Meadowpark will make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.

The Headteacher should take advice from the DOfA, 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.

Following the outcome of any criminal case the Headteacher may wish to seek advice from the L.A. communications team in order to manage any media coverage at this time.

Resignations and settlement agreements

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 in 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

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 Headteacher.

The Headteacher will ensure that:

- There is a clear and comprehensive summary of any allegations made;
- Give details of how the allegation was followed up and resolved;
- 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. 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 DOfA and place a copy on the person’s personnel file.

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

For all other allegations, it is important that a clear 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. This is held on the confidential personnel file of the accused, and a copy provided to the person concerned.

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

Timescales

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

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

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

Action on the conclusion of a case

In cases where it is decided on 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

In the rare event that an allegation is shown to have been deliberately invented or malicious, the Headteacher 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

In some cases, the school will need to consider a 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 temporary staff member provided by an employment agency or business or against a person employed by a contractor, or a volunteer provided by a voluntary organisation.

In these 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.

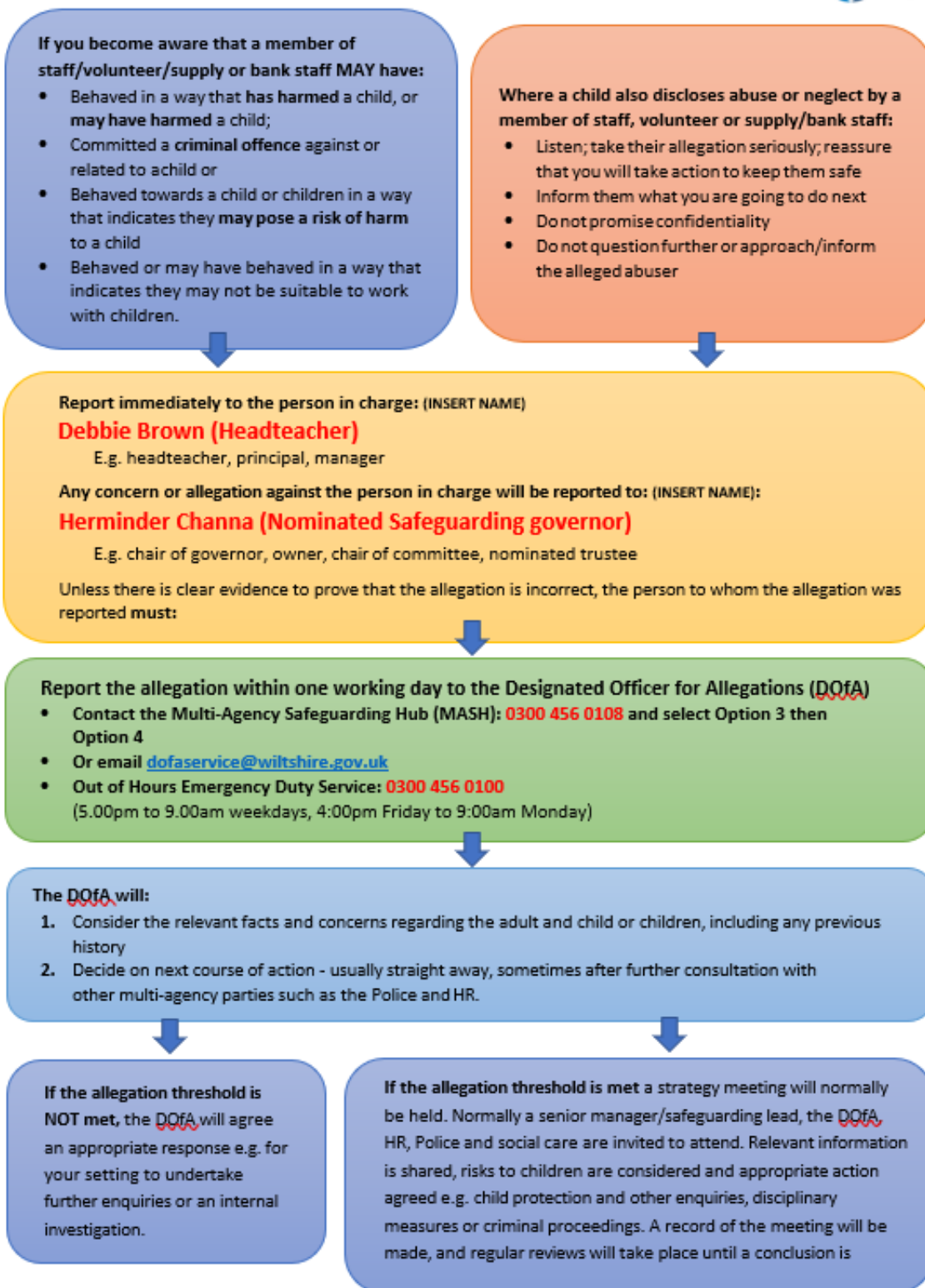
Approval and Review

The policy was approved by the Headteacher on 12th May 2021.

Reviewed September 2021 by DBrown

The renewal date is annually or earlier if there is a change in legislation.

Allegations against adults in education settings: risk of harm to children
(including schools, early years and alternative provision settings)



Reviewed: September 2021