

RISHWORTH SCHOOL POLICY FOR DEALING WITH ALLEGATIONS AGAINST TEACHER AND OTHER STAFF

<i>Reviewed by: ASG</i>
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This Policy is an Appendix to the Child Protection and Safeguarding Policy and is available to Staff via the Policy Library and Staff Handbook

1. Preamble

- 1.1. This policy applies to all 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 is to be used in all cases in which it is alleged that a teacher or member of staff (including volunteers) has:
 - a) behaved in a way that has harmed a child, or may have harmed a child;
 - b) possibly committed a criminal offence against or related to a child;
 - c) behaved towards a child or children in a way that indicates (s)he would pose a risk of harm if they work regularly or closely with children.
- 1.2. An allegation may relate to behaviour at work, at home or in another setting. Allegations of historical abuse will be responded to in the same way as any contemporary concerns.
- 1.3. Any allegations of abuse against a teacher or other member of staff or volunteer will be dealt with as a priority to avoid delay, 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.
- 1.4. Any allegation against a teacher or other member of staff or volunteer who no longer works for the School will be referred to the Police.

2. Initial Considerations

- 2.1. The procedures for dealing with allegations will be applied with common sense and judgement. Many cases may well either not meet the criteria set out in Section 1 of this Policy, or may do so without warranting consideration of a police investigation or inquiries by local authority children's services. In these cases the School will follow local arrangements to resolve cases quickly and without delay. Where the case is borderline, discussions with the LADO may be held informally, without naming the school or the individual.
- 2.2. Allegations about an existing staff member (including DSL) or volunteer should be referred directly to the Head who will liaise, as indicated below with the LADO. In the absence of the Head or in the case where the Head is the subject of the allegation or concern, then the matter should be referred to the Chair of Governors. Staff may consider discussing any concerns with the School's designated safeguarding lead and make the referral via them.

- 2.3. Some allegations, likely to be rare in practice, will be so serious to require immediate investigation by the local authority social care services and/or police. The Headmaster will inform the local authority designated officer (**LADO**) of any allegations which appear to meet the criteria so that (s)he can consult police and local authority's children's social care, as appropriate.
- 2.4. The following definitions will be used when determining the outcome of allegation investigations:
- a) **Substantiated:** there is sufficient identifiable evidence to prove the allegation.
 - b) **Malicious:** there is sufficient evidence to disprove the allegation, and there has been a deliberate act to deceive.
 - c) **False:** there is sufficient evidence to disprove the allegation.
 - d) **Unsubstantiated:** there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
- 2.5. In the first instance, the Headmaster who is DSL trained will discuss the allegation with the LADO. The purpose of this initial discussion will be to consider the nature, content and context of the allegation and agree a course of action. Additional information may be requested which is relevant, such as previous history, whether the child or their family have earlier made similar allegations and the individual's current contact with children. There may be situations when the Headmaster 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 criminal offence. Where there is no such evidence, the Headmaster will discuss the allegations with the LADO in order to determine whether police involvement is necessary. Where the Headmaster is the subject of the allegation the Chair of Governors will discuss the allegation directly with the LADO. Where the allegation is against the Head, the Head must not be informed of the allegation prior to contact with the Chair of Governors and LADO.
- 2.6. The initial sharing of information and evaluation may lead to a decision that no further action is required, in which case the decision and justification for it will be recorded by the Headmaster and LADO, and agreement reached as to what information should be put in writing to the individual concerned and by whom. The Headmaster will then consider with the LADO what action should follow both in respect of the individual and those who made the initial allegation.
- 2.7. The Headmaster will inform the accused person of the allegation as soon as possible after consulting the LADO. The Headmaster will provide the person with as much information as possible at the time. However, where a strategy discussion is needed or the police or local authority's social care services need to be involved, the Headmaster will not inform the accused person of the allegation until these agencies have been consulted and have agreed what information can be disclosed to the accused. The Headmaster will consider whether the circumstances of the case warrant a person being suspended from contact with children at the School or whether alternative arrangements can be put in place until the allegation or concern is resolved. 'All options to avoid suspension will be considered before taking that step (see below)'.

- 2.8. If there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion should be convened in accordance with Working Together to Safeguard Children. If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take account that teachers are entitled to use reasonable force to restrain children, including dealing with disruptive behaviour.
- 2.9. Where it is clear that an investigation by the police or local authority children's social services is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the LADO should discuss the next step with the Headmaster. The options open to the School will depend on the nature and circumstances of the allegation and the evidence available, and will range from taking no further action to summary dismissal or a decision not to use the person's services in the future. 'An individual will only be suspended if there is no reasonable alternative'.
- 2.10. In some cases further information will be needed about how to proceed. If so, the LADO should discuss with the Headmaster how and by whom the investigation should be undertaken. In straight forward cases it will normally be undertaken by a member of the School's senior staff. In other cases, the complexity of the allegation may require the instructions of a suitably qualified independent investigator.

3. Supporting those involved

- 3.1. The School will do whatever it reasonably can to manage and minimise the stress inherent in the allegations process. Support for the individual is central to fulfilling the School's duty of care to its employees. This will normally take the following course:
- a) informing the individuals of concerns or allegations as soon as possible and give an explanation of the likely course of action, unless there is an objection by the local authority social care or police;
 - b) advising the individual to contact their trade union representative, if they have one, or a colleague for support;
 - c) appointing a named representative in School 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;
 - d) not preventing social contact with colleagues or friends unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence or unless contact carries a significant risk of damaging the School or some aspects of it.
- 3.2. Parents or carers of a child or children involved will be told about the allegation as soon as possible if they do not already know of it. However, where a strategy meeting is required, or police or local authority children's social care agencies need to be involved, the Headmaster will not inform parents until these agencies have been consulted and have agreed information can be disclosed to parents.
- 3.3. The Headmaster will keep parents informed about the case, and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. Parents and carers will be made aware of the requirement to maintain confidentiality about any

allegations made against teachers whilst investigations are ongoing as set out in Section 141F (Education Act, 2002). Parents who wish to apply to the court to have reporting restrictions removed will be advised to take legal advice.

- 3.4. In cases where a child may have suffered significant harm or there may be a criminal prosecution the School will work with Children's Services (and any other appropriate agencies such as the Police) to ensure they have appropriate support.
- 3.5. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, will not normally be discussed, but parents or carers of the child will be told, subject to the provisions of the Data Protection Act and, where relevant, the Human Right Act 1988, the outcome in confidence.

4. Confidentiality

- 4.1. The School will make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.
- 4.2. From 1 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, or on behalf of a pupil from the same school (where that identification would identify the teacher as the subject of the allegation). The reporting restrictions apply until the point that the accused person is charged with an offence, or until the Secretary of State publishes information about an investigation or a decision in a disciplinary case arising from the allegation. The reporting restrictions also cease to apply 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 judge lifts reporting restrictions in a response to do so.
- 4.3. For the purpose of para 4.2, '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'. So, for example, a parent who published details of an 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).
- 4.4. In accordance with the Association of Chief Police Officers (ACPO) guidance 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 circumstances where the police might depart from that rule, e.g. an appeal to trace a suspect) they must apply to the magistrates' court to request that the reporting restrictions be lifted.
- 4.5. The Headmaster will take advice from the LADO, police and local authority social care services to agree the following:
 - a) who needs to know and importantly, exactly what information needs to be shared;
 - b) how to manage speculation, leaks and gossip;

- c) what if any information can be reasonably given to the wider community to reduce speculation;
- d) how to manage press interest if and when it should arise.

5. Resignations and Compromise Agreements / Settlement Agreements

- 5.1. The fact that a person tenders his or her resignation, or ceases to provide their services, will not prevent an allegation being followed up in accordance with these procedures. A referral to the Disclosure and Barring Service (DBS) will always be made when the criteria are met.
- 5.2. The School will make every effort 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 co-operate with the process.
- 5.3. Wherever possible the accused person will be given a full opportunity to answer the allegation and make representations about it, but the process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be regarded as substantiated on the basis of all the information available, will continue even if that cannot be done or the person does not co-operate. It may be difficult for the School to reach a conclusion in such 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 the School will reach and record a conclusion whenever possible.
- 5.4. The School will not entertain, in order to circumvent its statutory obligations, 'compromise' or 'settlement agreements' as they are now known, by which a person agrees to resign, the School agrees not to pursue formal action under its own procedures, and both parties agree a form of words to be used in any future reference. The School cannot and will not override its statutory duty to make a referral to the Disclosure and Barring Service (DBS) where circumstances require such a step to be taken.

6. Record Keeping

- 6.1. Details of allegations that are found to have been malicious will be removed from personnel records. However, for all other allegations, 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 personal file, and a copy provided to the person concerned.
- 6.2. The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where Disclosure and Barring Service (DBS) disclosures reveal information from the police about an allegation that did not result in a criminal conviction and it will help prevent unnecessary reinvestigation if, as sometimes happens, an allegation resurfaces after a period of time.
- 6.3. In line with paragraph 171 of the DfE statutory guidance, a record will be retained at least until normal pension age or for a period of 10 years from the date of the allegation if that is the longer.

7. References

- 7.1. Cases in which an allegation was proved to be false, unsubstantiated, unfounded or malicious will not be included in employer references. A history of repeated concerns or allegations which have all been found to be false, unsubstantiated or malicious will not be included in any reference.

8. Timescales

- 8.1. All allegations will be investigated as a priority to avoid delay.
- 8.2. The time taken to investigate and resolve individual cases will depend on a variety of factors including the nature, seriousness and complexity of the allegation. It is expected that 80 per cent of cases should be resolved within one month, 90 per cent within three months, and all but the most exceptional cases should be completed within 12 months.
- 8.3. For cases where it is immediately clear that the allegation is unsubstantiated or malicious, then it is expected that they should be dealt with within one week.
- 8.4. Where the initial consideration decides that the allegation does not involve a possible criminal offence, the Headmaster shall deal with it, although if there are any safeguarding concerns the Headmaster will discuss the case with LADO. In such cases, if the nature of the case does not require formal disciplinary action, the Headmaster will institute appropriate action within three working days. If a disciplinary hearing is required and can be held without further investigation, the hearing will normally take place within 15 working days.

9. Oversight and Monitoring

- 9.1. The LADO has overall responsibility for oversight of the procedures for dealing with allegations, for resolving any inter-agency issues, and for liaison with the Local Safeguarding Children Board (LSCB). The LADO will also provide advice and guidance to the School. Reviews are expected to be at fortnightly or monthly intervals depending on the complexity of the case.
- 9.2. If the strategy discussion decides that Police involvement is required the Police should set a target date for reviewing the progress of the investigation and consulting the CPS about whether to charge an individual, continue to investigate or close the investigation. Wherever possible this should be no later than four weeks after the initial evaluation. Dates for further reviews will be set at ideally fortnightly intervals should the decision be taken to continue the investigation.

10. Suspension

- 10.1. The possible risk of harm to children posed by an accused person must be effectively evaluated and managed in respect of the child(ren) involved in the allegation. In some cases this will require the School to consider suspending the person until the case is resolved. Suspension is likely to be considered in a case where

- a) there is cause to suspect a child or other children at the School is or are at risk of significant harm;
- b) the allegation is so serious that it might be grounds for dismissal;
- c) it is necessary to allow any investigation to continue unimpeded.

However, a person will not be suspended automatically, or without careful thought being given to the circumstances of the case.

- 10.2. The School will consider whether the result that would be achieved by suspension could be obtained by alternative arrangements, eg, arranging for an assistant to be present when the individual has contact with children or 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.
- 10.3. When it is deemed appropriate to suspend a member of boarding staff due to an investigation of a child protection nature then due consideration will be made by the School to arrange for alternative accommodation away from children.
- 10.4. The School will always consider the potential permanent professional reputational damage to teachers that can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended. If immediate suspension is considered necessary, the rationale and justification for that course will be agreed and recorded by the Headmaster and LADO, including what alternatives to suspension were considered and why they were rejected.
- 10.5. Where the School deems it appropriate to suspend the person, written confirmation will be given within one working day, giving the reasons for the suspension. The person will be informed at that point who their named contact is within School and be provided with their contact details. The power to suspend lies with the School, and not with any agency. The School will give appropriate weight to advice received from LADO, the police and the local authority children's social care services.

11. Information sharing

- 11.1. In a strategy discussion or initial evaluation of the case, the agencies involved should share all relevant information they have about the person who is subject to the allegation, and about the alleged victim.
- 11.2. Wherever possible the police should obtain consent from individuals concerned to share statements and evidence they obtain with the School for disciplinary purposes. This should be done as the investigation proceeds. The local authority's social care services should adopt a similar procedure in respect of any information obtained in the course of its inquiries.

12. Action following a criminal investigation or a prosecution

- 12.1. The police or Crown Prosecution Service (CPS) should inform the School and LADO immediately when a criminal investigation, any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to prosecute after a person has been charged.

- 12.2. In such circumstances LADO should discuss with the Headmaster whether any further action, including disciplinary action, is appropriate and if so how to proceed. The information provided by the police and the local authority social care services should inform that decision.
- 12.3. The options will depend on the circumstances of the case and the consideration will need to take account of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

13. Action on conclusion of a case

- 13.1. If an 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 Headmaster will discuss with the LADO whether a referral to the Disclosure and Barring Service (DBS) for consideration of inclusion on the barred lists or other appropriate agency, including the National College for Teaching and Leadership (NCTL), is required.
- 13.2. There is a legal requirement for the School to make a prompt referral to the Disclosure and Barring Service where it believes 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.
- 13.3. Professional misconduct cases will be referred to the relevant regulatory body.
- 13.4. In cases where it is decided on the conclusion of the case that a person who has been suspended can return to work, the School will consider how best to facilitate that, including whether this should be a phased return and the provision of a mentor to provide assistance and support in the short term.

14. Learning lessons

- 14.1. At the conclusion of a case in which an allegation is substantiated the LADO should review the circumstances of the case with the Headmaster to determine whether there are any improvements to be made to the School's procedures or practice to help prevent similar events in the future.
- 14.2. Any allegation shown to have been deliberately invented or malicious is likely to lead to the Headmaster considering whether any disciplinary action is appropriate against the pupil or person responsible who made it, including suspension or exclusion, and the police being asked to consider whether there is any action they might wish to take in addition to that taken by the School.

ASG