

# The Orchard School



## Dealing with Allegations of Abuse Against Staff Policy

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## The Orchard School Dealing with Allegations of Abuse Against Staff Policy

The Orchard School takes its responsibility of care for its pupils seriously. We recognise that if there is any possibility that a member of staff may have harmed a pupil, it must be investigated thoroughly, but in a way that does not prejudice either the pupil or the member of staff. Any investigation of an allegation of abuse against a member of staff must follow the objective, professional standards and routines described in this policy.

Allegations of abuse against staff should not be dealt with under the schools general complaints procedure.

The allegations of abuse by staff procedures are based on the following:  
*Keeping Children Safe in Education adopted 26 March 2015.*

The framework for managing cases of allegations of abuse against people who work with children is set out in:

*Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children adopted 26 March 2015.*

And

*Allegations of Abuse against Teachers and Non-teaching Staff, Department for Education published 29 March 2012.*

### **INITIAL ALLEGATION MADE TO THE SCHOOL**

Any allegation of abuse of a pupil by a teacher must be reported to the Designated Safeguarding Lead. Should the initial allegation first be made to any other member of staff then that member of staff must either request the person raising the allegation to report it to the Designated Safeguarding Lead or if that is not possible to pass details of the allegation to the Designated Safeguarding Lead immediately.

Should the allegation be made against the Designated Safeguarding Lead then this should be reported to the Headteacher immediately.

In the event that the allegation or concern involves the Designated Safeguarding Lead then the matter must be reported directly to the Headteacher. **Should the allegation or concern involve the Headteacher then the matter must be reported to the Designated Safeguarding Lead who must also refer the matter to the Chair of Governors.** At all times any report of any allegation or possible concern will be dealt with in the strictest confidence, and if necessary staff can raise concerns directly with the Local Authority Designated Officer with full protection under Whistle-blowing.

**In all cases, the Headteacher (or the Designated Safeguarding Lead in cases where the Headteacher is involved), must have an immediate preliminary consultation about the allegation or concern with the Local Authority Designated Officer who will advise on further action in accordance with this procedure as appropriate. This is not the beginning of an investigation, but**

**part of the basic information gathering process. This advice will include who should be made aware that an allegation or concern has been raised.**

Should the allegation meet any of the following criteria then the Designated Safeguarding Lead should report the allegation to the Local Authority Designated Officer the same day that the allegation is received that a teacher or member of staff or volunteer at the school has:

- Behaved in a way that has harmed a pupil, or may have harmed a pupil or;
- Possibly committed a criminal offence against or related to a pupil or;
- Behaved towards a pupil or children in a way that indicated s/he would oppose a risk of harm if they work regularly or closely with children.

## **ANONYMITY**

Legislation issued under section 13 of the Education Act 2011 also introduced an anonymity clause for teachers who are subject of an allegation. It is now an offence for anyone to put sensitive information regarding an allegation against a teacher into the public domain prior to any charge or subsequent court appearance. The Headteacher and Governing Body need to pay particular attention to this legislation when dealing with enquiries from parents or the media.

## **INITIAL CONSIDERATION**

The Designated Safeguarding Lead will discuss the matter with the Local Authority Designated Officer and provide any further details of the allegation and the circumstances in which it was made.

The Designated Safeguarding Lead should not investigate the allegation at this stage. The discussion will also consider whether there is evidence or information that establishes that the allegation is false or unfounded.

If the allegation is not patently false and there is cause to suspect that a pupil is suffering or is likely to suffer significant harm, the Local Authority Designated Officer will immediately refer to Children's social care and ask for a strategy discussion in accordance with Working Together to Safeguard Children (DfE March 2015) to be convened straight away. In those circumstances the strategy discussion should include the Local Authority Designated Officer and the Designated Safeguarding Lead.

If there is not cause to suspect that "significant harm" is an issue, but a criminal offence might have been committed, the Local Authority Designated Officer should immediately inform the police and convene a similar discussion to decide whether a police investigation is needed. The discussion will also involve the school and any other agencies involved with the pupil.

## **ACTION FOLLOWING INITIAL CONSIDERATION**

Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the Designated Safeguarding Lead to deal with it in consultation with the Headteacher. In such cases, if the nature of the allegation does not require formal disciplinary action, appropriate action should be instituted within three working days. If a disciplinary hearing is

required and can be held without further investigation, the hearing should be held within 15 working days.

Where further investigation is required to inform consideration of disciplinary action the Designated Safeguarding Lead and the Headteacher should discuss who will undertake that with the Local Authority Designated Officer.

The investigating officer should aim to provide a report to the employer within 10 working days.

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

- a) **Substantiated**: there is sufficient identifiable evidence to prove the allegation;
- b) **False**: there is sufficient evidence to disprove the allegation;
- c) **Malicious**: there is clear evidence to prove there has been a deliberate act to deceive and allegation is entirely false;
- d) **Unfounded**: there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances;
- e) **Unsubstantiated**: this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

On receipt of the report of the disciplinary investigation, the Designated Safeguarding Lead should consult the Local Authority Designated Officer, and decide whether a disciplinary hearing is needed within two working days. If a hearing is needed it should be held within 15 working days.

In any case in which children's social care has undertaken enquiries to determine whether the pupil or children are in need of protection, the Headteacher and School Governors should take account of any relevant information obtained in the course of those enquiries when considering disciplinary action.

The Local Authority Designated Officer should continue to liaise with the school to monitor progress of the case and provide advice or support when required or requested.

### **CASE SUBJECT TO POLICE INVESTIGATION**

If the police and/or Crown Prosecution Service decide not to charge the individual with an offence, or decide to administer a caution, or the person is acquitted by a Court, the police should wherever possible aim to pass all of the information they have which may be relevant to a disciplinary case to the Headteacher within three working days of the decision. In those circumstances the Headteacher and the Local Authority Designated Officer should proceed as described above.

In any case in which children's social care has undertaken enquires to determine whether the pupil or children are in need of protection, any information obtained in the course of those enquiries which is relevant to a disciplinary case should also be passed to the school and the Headteacher should request this information.

## **SUPPORTING THOSE INVOLVED**

Employers have a duty of care to their employee. They should act to manage and minimise the stress inherent in the allegations process. Support for the individual is key to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by the Children's social care services or the police.

The person who is subject of the allegation should be kept informed of the progress of the case and consideration should be given to what other support is appropriate for the individual. Particular care needs to be taken when employees are suspended to ensure that they are kept informed of both the progress of their case and current work-related issues. Social contact with colleagues and friends should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

Parents or carers of a pupil or children involved should be told about the allegation as soon as possible if they do not already know of it. However, where a strategy discussion is required, or police or children's social care services need to be involved, the case manager should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers. Parent or carers should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but the parents or carers of the pupil should be told the outcome in confidence.

If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice. In cases where a pupil 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 pupil or children involved may need.

## **CONFIDENTIALITY**

The Headteacher, Chair of Governors (or nominated governor) and Local Authority officers have a responsibility to safeguard confidentiality as far as is possible. Sensitive information must only be disclosed on a need to know basis with other professionals involved in the investigative process. Other people may become aware of the allegation and may not feel bound to maintain confidentiality. Therefore consideration should be given on how best to manage information, particularly in relation to who should be told what, when and how. This is particularly relevant in respect of parents, carers and the media in light of new legislation and the anonymity clause.

## **RESIGNATIONS AND "COMPROMISE AGREEMENTS"**

If the accused person resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with this 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 refuses to cooperate with the process. Wherever possible the accused should 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 substantiated on the basis of all the information available, should continue even if that cannot be done or 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 a conclusion wherever possible.

So-called "compromise 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 in these cases. Such an agreement will not prevent a thorough police investigation where that is appropriate. Nor can it override the statutory duty to make a referral to the Disclosure and Barring Service where circumstances require that.

## **RECORD KEEPING**

Details of allegations that are found to have been malicious should be removed from personal records. However, for all other allegations, it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the confidential personnel file of the accused, and a copy provided to the person concerned.

The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future Disclosure and Barring Service disclosures reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record should be retained at least until the accused has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

For more information refer to published guidance about retention of employment records and practise codes.

## **REFERENCES**

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

## **LINKS**

Child Protection Policy  
Safeguarding Policy

Whistleblowing Policy  
Staff Discipline and Conduct Policy

## **WHAT HAPPENS IF AN ALLEGATION OF ABUSE IS MADE AGAINST A MEMBER OF STAFF AT THE ORCHARD SCHOOL**

Unfortunately, pupil abuse does occasionally take place in school. These guidelines remind staff of the measures that can be taken to reduce the risk of any allegations being made against them or another member of staff. It also contains the procedure, which will be undertaken if an allegation is made against a member of staff. This complies with both the Early Years Foundation Stage (2012) and Kent Safeguarding Children Board Procedures.

How we can protect ourselves?

- If a pupil sustains an injury whilst in our care, we will record it in the accident book as soon as possible. We will inform parent/carers about the injury through the contact book or with a telephone call.
- If a pupil arrives with an injury sustained elsewhere we will ask for an explanation and again record this on a Yellow Form.
- We will ensure that all staff undertake regular child protection and safeguarding training.
- We will ensure that all parents/carers understand our role and responsibility in child protection. Within the school this will be to parents in writing within the information pack before the pupil begins at The Orchard.
- Our Social, Emotional and Behaviour Support Policy states that no physical sanctions will be used but there are times when a pupil will be restrained using Team Teach.
- We will try to avoid situations where an adult is left alone in a room with a pupil and if this deemed appropriate it will be through prior agreement.
- We will avoid engaging in rough physical play with children, as this may be misconstrued and could cause accidental injury to a pupil.
- We will avoid doing things of a personal nature for children that they can do for themselves.
- We will take up references, including one from the candidate's last employer, and will always question any gaps in employment history.
- We encourage an open door ethos, to enable staff to talk to senior leaders if they have concerns about the conduct of any of their colleagues.

**What happens if an allegation of abuse is made against a member of staff in the School?**

- If anyone makes an allegation of abuse against a member of our staff, our Designated Safeguarding Lead will be informed immediately and in conjunction with the Headteacher will contact our Local Authority Designated Officer.
- They will assess whether the allegation reaches the threshold for referral to Police/Children's Social Services and advise accordingly regarding further action to be taken in respect of the pupil and the member of staff.
- The Designated Safeguarding Lead will complete the allegations form for recording allegations or complaints made against staff. This form is obtainable from the Business Manager.

- The Designated Safeguarding Lead will not discuss the allegation with the member of staff concerned, unless advised to do so by Children's Social Services.
- All staff need to be aware that it is a disciplinary offence not to report concerns about the conduct of a colleague that could place a pupil at risk. When in doubt – consult.
- If Children's Social Services and/or the police decide to carry out an investigation, it may be possible that we will be advised to suspend the member of staff, whilst enquiries are carried out. In this instance we will follow our disciplinary procedures policy.
- We will not carry out an investigation ourselves unless Children's Social Services and the Police decide it is not necessary for them to do so. We understand that Ofsted may wish to undertake further investigations in some circumstances.

***Always remember;***

***The welfare of the pupil is Paramount***