



THE CAVENDISH HIGH ACADEMY

DEALING WITH ALLEGATIONS AGAINST SCHOOL BASED STAFF

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Approved by Governors	
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Introduction

All employers are under an absolute duty to promote and safeguard the welfare of children at their school, and to have regard to guidance issued by the Secretary of State in so doing. The Cavendish High Academy takes this responsibility seriously, and will ensure that any allegation of abuse made against a teacher or other member of staff or volunteer is dealt with fairly, quickly and consistently, in accordance with the DfE guidance.

The procedure documented within this policy must be used in any case where it is alleged that a teacher or other member of staff, supply teacher or volunteer (in the case of supply staff please see below) of the Academy has:

- behaved in a way that has harmed 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 he or she may pose a risk of harm to children; or
- behaved or may have behaved in a way that indicates the member of staff may not be suitable to work with children.

All members of staff in the Academy will be made aware of this policy during induction.

How concerns arise

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

- a direct allegation by a pupil or a third party, for example a parent; or
- 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 principal immediately, unless the allegations are about the principal in which case, it must be reported to the Chair of Governors. If the principal is absent, the allegation should be reported to the teacher in charge.

As this is a statutory duty, we expect all members of staff in the Academy, where they have concerns, to report them in accordance with this policy.

1. Initial action

The principal or Chair of Governors will ensure that they have a full understanding of what is being alleged from the member of staff or third party, only speaking to the child if it is unavoidable or it is the child making the allegation.

The principal or Chair of Governors will simply establish that:

- an allegation has been made;
- the general nature of the allegation;
- when and where the incident is alleged to have occurred;
- who was involved; and
- any other persons present.

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

2. Low Level concerns

In line with Section Two of Part Four of Keeping Children Safe in Education, we recognise the importance of creating a culture of openness, trust and transparency to encourage all staff to share low-level concerns with the right person so that they can be addressed appropriately. The purpose of our approach to low-level concerns is to ensure that our values are constantly lived, monitored and reinforced by staff.

3. Definition of low-level concerns

The term ‘low-level’ concern does not mean that the concern is insignificant, it means that the threshold set out at the start of this appendix has not been met. A low-level concern covers any concern no matter how small, even if it is no more than causing a sense of unease or a ‘nagging doubt’ - that an adult working in or on behalf of the school or college may have acted in a way that:

- is inconsistent with the staff code of conduct, 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.

Examples of such behaviour could include, but are not limited to:

- being over friendly with children
- having favourites
- taking photographs of children on a personal mobile phone

- engaging with a child on a one-to-one basis in a secluded area or behind a closed door
- using inappropriate sexualised, intimidating or offensive language.

Such behaviour can exist on a spectrum.

4. Sharing low-level concerns

Low-level concerns about a member of staff, supply staff, volunteer or contractor should be reported to the principal. Any concerns about the principal should be reported to the Chair of Governors.

5. Recording low-level concerns

All low-level concerns will be recorded in writing. Each record will include detail of the concern, the context in which the concern arose, and action taken. Records will be kept confidential, held securely and comply with the Data Protection Act 2018 and the UK General Data Protection Regulation. Records will be reviewed so that potential patterns of concerning, problematic or inappropriate behaviour can be identified. Where a pattern of such behaviour is identified, we will decide on a course of action, either through our disciplinary procedures or by referring to the LADO, where a pattern of behaviour moves from a concern to meeting the harms threshold.

6. Low-level concerns and references

Low-level concerns will not be included in references unless they relate to issues which would normally be included in a reference, for example, misconduct or poor performance. Where a low-level concern (or group of concerns) has met the threshold for referral to the LADO and found to be substantiated, it will be referred to in a reference.

Consultation and referral

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

If the allegation meets any of the criteria set out above, the principal or Chair of Governors must report the allegation to the Designated Officer – for Halton (HSCB) this is referred to as the Local Authority Designated Officer (LADO). In Halton, the functions of the LADO are undertaken by members of the Safeguarding Unit under a

duty system; the term LADO is used to refer to the team of officers rather than a named individual. The LADO can be contacted on 0151 511 7229.

Initial consideration of the allegation

The LADO's first step will be to discuss the allegation with the principal or Chair of Governors to confirm details of the allegation and establish that it is not demonstrably false or unfounded.

If the parents/carers of the child concerned are not already aware of the allegation, the LADO will also discuss how and by whom they should be informed.

In some circumstances the Academy may advise parents of an incident involving their child straight away, for example, if the child has been injured while at school or in a school related activity, and requires medical treatment.

The principal will usually inform the accused person about the allegations as soon as possible after consulting the LADO. However, where a strategy discussion is needed, this will be deferred until after consultation with the police and any other agencies has taken place, and there is agreement about what information can be disclosed to the person.

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

Strategy Meeting / Evaluation with Police

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

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

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

A senior Academy representative principal or Chair of Governors) will attend any strategy meeting, unless there are good reasons not to do so, and provide details

about the circumstances and context of the allegation and the pupil and member of staff concerned.

Suspension

The possible risk of harm to children posed by an accused person needs to be assessed and managed – in respect of the child or children involved in the allegation, and any other children in the accused individual's home, work or community life.

Suspension will be considered in any case where:

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

The Academy will consider carefully whether the circumstances of a case warrant a person being suspended from contact with the children until the allegation is resolved. In deciding whether to suspend a member of staff, the Academy will consider advice given at a strategy meeting and any risk assessment. All options to avoid suspension will be considered prior to suspending an employee.

The following alternatives will be considered by the case manager before suspending a member of staff:

- redeployment within the school so that the individual does not have direct contact with the child or children concerned
- providing an assistant to be present when the individual has contact with children
- redeploying to alternative work in the school 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, 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.

If immediate suspension is considered necessary, the rationale and justification for such a course of action will be agreed and recorded.

If an employee is suspended, they will be informed of this in writing and provided with a named contact at the Academy.

Action where 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 principal and Chair of Governors will discuss the next steps with the LADO.

In those circumstances the options open to the Academy depend on the nature and circumstances of the allegation and the evidence and information available, and will range from taking no further action or giving professional advice as part of an informal warning to conducting formal disciplinary action that could lead to dismissal or lesser formal warning.

If the nature of the allegation does not require formal disciplinary action/investigation, the principal will institute appropriate action within three working days. This would normally be professional advice or an informal warning - although a record will be kept of this.

Where further enquiries will be needed to enable a decision about how to proceed, the principal and Chair of Governors will agree with the LADO how and by whom the investigation will be undertaken.

In straightforward cases such investigation should normally be undertaken by a senior member of staff of the Academy. However, if there is a lack of appropriate resources within the Academy or if the nature or complexity of the allegation so requires, an independent investigator will be appointed.

The following definitions will be used when determining the outcome of any investigation:

- **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.

On receipt of the report of the disciplinary investigation, the principal and Chair of Governors should consult the LADO, 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.

Action where police or local authority investigation is necessary

The police or the Crown Prosecution Service (CPS) should inform the Academy and LADO straight away:

- if it is decided to close an investigation without charge; or
- if it is decided not to prosecute after the person has been charged; or
- when a criminal investigation and any subsequent trial is complete.

In those circumstances, the LADO will discuss with the principal and Chair of Governors 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 services will inform that decision.

Referral to DBS

If, on conclusion of the case, the Academy ceases to use the accused person's services, or the accused person resigns or ceases to provide their services, the Academy will consult its HR manager about whether a referral to the DBS for barring is required.

Supporting those involved

The principal or Chair of Governors will notify the parents or carers of the child or children involved as soon as possible if they are not already aware of it. Parents and carers should be reminded of the requirement to maintain confidentiality whilst the investigation is ongoing.

The Academy will also keep the person who is the subject of the allegations informed of the progress of the case as soon as possible and explain the likely course of action, provided there is no objection from Children's social care services or the police. The Academy will also consider what other support is appropriate for the individual.

Access to counselling services or medical advice should be provided and if the person is suspended, the Academy will also keep the individual informed about developments and provide the employee with a named contact at the Academy. If the person is a member of a union or professional association, they should be advised to contact that body at the outset.

Confidentiality

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

No-one in the Academy may provide any information to the press or media that might identify an individual under investigation, while an allegation is being investigated or considered.

No-one in the Academy 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 principal or Chair of Governors should take advice from the LADO, 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.

Resignations and settlement agreements

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

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

individual has engaged in conduct that harmed (or is likely to harm) a child, or if the person otherwise poses a risk of harm to a child and that individual has been removed from working in regulated activity or would have been removed had they not left.

Settlement Agreements should also not be entered into in cases where the individual refused to cooperate or resigns before the person's notice period expires.

Record keeping

If anyone in the Academy has any concerns that may lead them to consider that an investigation is required, they must record and report the information to the principal or Chair of Governors, as soon as practicable.

The principal will ensure that:

- a clear and comprehensive summary of any allegations is made;
- details of how the allegation was followed up and resolved is made;
- 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.

At the conclusion of the investigation, if the person under investigation is exonerated, the Academy will write to the person confirming this, and send a copy to the LADO and place a copy on the person's personnel file. If allegations are found to be malicious, they will be removed from the employee's personnel file.

The Academy 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. All other records will be retained at least until the employee reaches normal pension age or for 10 years from the date of the allegation if that is longer. The purpose of the record is to enable accurate information to be given in response to any future reference request, where appropriate and to provide clarification in future DBS checks and help prevent unnecessary re-investigation if an allegation resurfaces after a period of time.

References

Cases in which an allegation was proven to be false, unsubstantiated 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.

Timescales

The Academy will endeavour to follow the timescales set out in the guidance for such investigations, as long as this is consistent with a fair and thorough investigation. However, it is acknowledged that serious and complex allegations are unlikely to be resolved quickly, particularly where specialist evidence is needed, or the matter comes to a contested trial.

Oversight and monitoring

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

Reviews should be conducted at fortnightly or monthly intervals, depending on the complexity of the case.

Action on conclusion of a case

In cases where it is decided on the conclusion of the case that a person who has been suspended can return to work, the Academy will consider how best to facilitate that.

Where an allegation is substantiated and the person is dismissed or their services cease to be used, or the person resigns or ceases to provide their services, the LADO should discuss the case with the principal/Chair of Governors and their HR advisor to discuss whether a DBS referral is required and in the case of an individual engaged in teaching work, whether a referral to the TRA is required.

There is a legal requirement for employers to make a referral to the DBS where they think that 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. In the case of a member of staff engaged in teaching work (which may include support staff such as TAs, HLTAAs, Instructors and unqualified teachers as well as teachers), the Academy needs to consider whether to refer the matter to the TRA to consider prohibiting them from teaching.

Learning lessons

At the conclusion of a case in which an allegation is substantiated the principal and Chair of Governors will review the case with the LADO to determine whether there are any improvements to be made to the Academy's procedures or practice to help prevent similar events in the future.

Actions in respect of malicious allegations

In the rare event that an allegation is shown to have been deliberately invented or malicious, the principal will consider whether any disciplinary action is appropriate against the pupil who made it; or whether the police should be asked to consider if action might be appropriate against the person responsible, even if they are not a pupil.

If allegations are found to be malicious, they will be removed from the employee's personnel file.

Allegations concerning staff not directly employed by the Academy

In some cases, the Academy will need to consider an investigation case in which normal disciplinary procedures do not apply, and may need to act jointly with another organisation.

That will be necessary when, for example, an allegation is made against a supply teacher provided by an employment agency or business, or against a person employed by a contractor, or a volunteer provided by a voluntary organisation. In such cases normal disciplinary procedures would not be appropriate because the person is a volunteer or self-employed or otherwise not directly employed by the Academy.

Although in those cases the Academy will not have a direct employment relationship with the individual, the Academy will cooperate and be involved in the investigation, any referral to the LADO and in reaching a decision about whether to continue to use the person's services, or to provide the person for work with children in future, and whether to report the person to DBS/TRA.