

# Managing allegations against staff (including low level concerns) Policy.VI.4

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## **1. Policy**

Clover Learning Community takes responsibility of care for its students seriously and fully endorses the principles and practice of “Every Child Matters”. We recognise that any possibility that a member of staff may have hurt a student must be investigated thoroughly, but in a way that does not prejudice either the student or the member of staff.

This policy applies to all cases in which it is alleged that a current member of staff, including a supply teacher or volunteer has:

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

It applies regardless of whether the alleged abuse took place in the provision. Allegations against a member of staff who is no longer teaching and historical allegations of abuse will be referred to the police.

We will deal with any allegation of abuse against a member of staff or volunteer very quickly, in a fair and consistent way that provides effective child protection while also supporting the individual who is the subject of the allegation.

Our procedures for dealing with allegations will be applied with common sense and judgement. Any investigation of an allegation of abuse against a member of staff must follow the objective, professional standards and routines described here.

Allegations of abuse against staff must not be dealt with under the provision’s general complaints procedure.

## **2. Legislation and guidance**

The allegations of abuse by staff procedures are based on the following:

Keeping Children Safe in Education (2021)

The framework for managing cases of allegations of abuse against people who work with children is set out in: Working together to Safeguard Children (2018).

## **3. Suspension**

Suspension will be considered in cases where there is reason to suspect that a child or other children is/are at risk of harm, or the case is so serious that it might be grounds for dismissal. (Note that suspension is a neutral act to allow appropriate space for the investigation to be conducted.) In such cases, we will only suspend an individual if we have considered all other options available and there is no reasonable alternative.

Based on an assessment of risk, we will consider alternatives such as:

- Redeployment within the provision 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 the individual to alternative work in the provision so that they do not have unsupervised access to children
- Moving the child or children to classes where they will not come into contact with the individual, making it clear that this is not a punishment and parents have been consulted

#### 4. Definitions for outcomes 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 (this does not imply guilt or innocence)
- Unfounded: to reflect cases where there is no evidence or proper basis which supports the allegation being made

#### 5. Procedure for dealing with allegations

In the event of an allegation that meets any of the criteria above, the Head of Centre (or a director and one person independent of the running or management of Clover Learning Community where the Head of Centre is the subject of the allegation) – the ‘case managers’ – will take the following steps:

- Immediately discuss the allegation with the designated officer at the local authority. This is to consider the nature, content and context of the allegation and agree a course of action, including whether further enquiries are necessary to enable a decision on how to proceed, and whether it is necessary to involve the police and/or children’s social care services. (The case manager may, on occasion, consider it necessary to involve the police before consulting the designated officer – for example, if the accused individual is deemed to be an immediate risk to children or there is evidence of a possible criminal offence. In such cases, the case manager will notify the designated officer as soon as practicably possible after contacting the police)
- Inform the accused individual of the concerns or allegations and likely course of action as soon as possible after speaking to the designated officer (and the police or children’s social care services, where necessary). Where the police and/or children’s social care services are involved, the case manager will only share such information with the individual as has been agreed with those agencies
- Where appropriate (in the circumstances described above), carefully consider whether suspension of the individual from contact with children at the provision is justified or whether alternative arrangements such as those outlined above can be put in place. Advice will be sought from the designated officer, police and/or children’s social care services, as appropriate
- **If immediate suspension is considered necessary**, agree and record the rationale for this with the designated officer. The record will include information about the alternatives to suspension that have been considered, and why they were rejected. Written confirmation of the suspension will be provided to the individual facing the allegation or concern within 1 working day, and the individual will be given a named contact at the provision and their contact details
- **If it is decided that no further action is to be taken** in regard to the subject of the allegation or concern, record this decision and the justification for it and agree with the designated officer what information should be put in writing to the individual and by whom, as well as what action should follow both in respect of the individual and those who made the initial allegation

- **If it is decided that further action is needed**, take steps as agreed with the designated officer to initiate the appropriate action in provision and/or liaise with the police and/or children's social care services as appropriate
- Provide effective support for the individual facing the allegation or concern, including appointing a named representative to keep them informed of the progress of the case and considering what other support is appropriate eg trade union representation, support from work colleague or support from the Care First Employee Assistance Service
- Inform the commissioner of the child/children involved about the allegation as soon as possible if they do not already know (following agreement with children's social care services and/or the police, if applicable). The case manager will also inform the commissioner, parents or carers of the requirement to maintain confidentiality about any allegations made against teachers (where this applies) while investigations are ongoing. Any parent or carer who wishes to have the confidentiality restrictions removed in respect of a staff member will be advised to seek legal advice
- Keep the commissioner of the child/children involved informed of the progress of the case and the outcome, where there is not a criminal prosecution, including the outcome of any disciplinary process (in confidence)
- Make a referral to the DBS where it is thought that the individual facing the allegation or concern has engaged in conduct that harmed or is likely to harm a child, or if the individual otherwise poses a risk of harm to a child

We will inform the LEBC of any allegations of serious harm or abuse by any person living, working, or looking after children at the premises (whether the allegations relate to harm or abuse committed on the premises or elsewhere), and any action taken in respect of the allegations. This notification will be made as soon as reasonably possible and always within 14 days of the allegations being made. If the provision is made aware that the Secretary of State has made an interim prohibition order in respect of an individual, we will immediately suspend that individual from teaching or working with students, pending the findings of the investigation by the Teaching Regulation Agency. Where the police are involved, wherever possible the Trust will ask the police at the start of the investigation to obtain consent from the individuals involved to share their statements and evidence for use in the provision's disciplinary process, should this be required at a later point.

#### **Additional considerations for supply staff:**

If there are concerns or an allegation is made against someone not directly employed by the provision, such as supply staff provided by an agency, we will take the actions below in addition to our standard procedures.

- We will not stop using a supply staff due to safeguarding concerns without finding out the facts and liaising with our local authority designated officer to determine a suitable outcome
- The Head of Centre or their designated case manager will discuss with the agency whether it is appropriate to suspend the supply teacher, while the provision carries out the investigation
- We will involve the agency fully, but the provision will take the lead in collecting the necessary information and providing it to the local authority designated officer as required
- We will address issues such as information sharing, to ensure any previous concerns or allegations known to the agency are taken into account (we will do this, for example, as part of the allegations management meeting or by liaising directly with the agency where necessary). When using an agency, we will inform them of our process for managing allegations, and keep them updated about our policies as necessary, and will invite the agency's HR manager or equivalent to meetings as appropriate.

For all cases, the case manager (and if they have been involved the LADO) should consider the facts and determine whether any lessons can be learned and if improvements can be made.

## **5.1 Timescales**

- Any cases where it is clear immediately that the allegation is unsubstantiated or malicious will be resolved within 1 week
- If the nature of an allegation does not require formal disciplinary action, we will institute appropriate action within 3 working days
- If a disciplinary hearing is required and can be held without further investigation, we will hold this within 15 working days

## **5.2 Specific actions**

### **5.2.1 Action following a criminal investigation or prosecution**

The case manager will discuss with the local authority's designated officer whether any further action, including disciplinary action, is appropriate and, if so, how to proceed, taking into account information provided by the police and/or children's social care services.

### **5.2.2 Conclusion of a case where the allegation is substantiated**

If the allegation is substantiated and the individual is dismissed or the provision ceases to use their services, or the individual resigns or otherwise ceases to provide their services, the case manager and the provision's personnel adviser will discuss with the designated officer whether to make a referral to the DBS for consideration of whether inclusion on the barred lists is required. If they think that the individual has engaged in conduct that has harmed (or is likely to harm) a child, or they think the person otherwise poses a risk of harm to a child, they must make a referral to the DBS. If the individual concerned is a member of teaching staff, the case manager and personnel adviser will discuss with the designated officer whether to refer the matter to the Teaching Regulation Agency or the relevant agencies to consider prohibiting the individual from teaching or working with children and young people.

### **5.2.3 Individuals returning to work after suspension**

If it is decided on the conclusion of a case that an individual who has been suspended can return to work, the case manager will consider how best to facilitate this.

The case manager will also consider how best to manage the individual's contact with the child or children who made the allegation, if they are still attending the provision.

### **5.2.4 Unsubstantiated or malicious allegations**

If an allegation is shown to be deliberately invented, or malicious, the head of centre, or other appropriate person in the case of an allegation against the head of centre, will consider whether any disciplinary action is appropriate against the student(s) who made it, or whether the police should be asked to consider whether action against those who made the allegation might be appropriate, even if they are not a student.

### **5.2.5 Confidentiality**

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

The case manager will take advice from the local authority's designated officer, police and children's social care services, as appropriate, to agree:

- Who needs to know about the allegation and what information can be shared
- How to manage speculation, leaks and gossip, including how to make parents or carers of a child/children involved aware of their obligations with respect to confidentiality
- What, if any, information can be reasonably given to the wider community to reduce speculation

- How to manage press interest if, and when, it arises

## 6. Record-keeping

The case manager will maintain clear records about any case where the allegation or concern meets the criteria above and store them on the individual's confidential personnel file for the duration of the case. Such records will include:

- A clear and comprehensive summary of the allegation
- Details of how the allegation was followed up and resolved
- Notes of any action taken and decisions reached (and justification for these, as stated above)

If an allegation or concern is not found to have been malicious, the provision will retain the records of the case on the individual's confidential personnel file, and provide a copy to the individual. Where records contain information about allegations of sexual abuse, we will preserve these for the Independent Inquiry into Child Sexual Abuse (IICSA), for the term of the inquiry. We will retain all other records at least until the individual has reached normal pension age, or for 10 years from the date of the allegation if that is longer.

The records of any allegation that is found to be malicious will be deleted from the individual's personnel file.

## 7. References

When providing employer references, we will not refer to any allegation that has been proven to be false, unsubstantiated or malicious, or any history of allegations where all such allegations have been proven to be false, unsubstantiated or malicious.

## 8. Learning lessons

After any cases where the allegations are *substantiated*, the case manager will review the circumstances of the case with the local authority's designated officer to determine whether there are any improvements that we can make to the school's procedures or practice to help prevent similar events in the future.

This will include consideration of (as applicable):

- Issues arising from the decision to suspend the member of staff
- The duration of the suspension
- Whether or not the suspension was justified
- The use of suspension when the individual is subsequently reinstated. We will consider how future investigations of a similar nature could be carried out without suspending the individual

For all other cases, the case manager will consider the facts and determine whether any improvements can be made.

## 9. Non-recent allegations

Abuse can be reported, no matter how long ago it happened.

We will report any non-recent allegations made by a child to the LADO in line with our local authority's procedures for dealing with non-recent allegations.

Where an adult makes an allegation to the provision that they were abused as a child, we will advise the individual to report the allegation to the police.

## **10. Concerns that do not meet the harm threshold**

The section is based on 'Section 2: Concerns that do not meet the harm threshold' in part 4 of Keeping Children Safe in Education.

This section applies to all concerns (including allegations) about members of staff, including supply teachers, volunteers and contractors, which do not meet the harm threshold set out above.

Concerns may arise through, for example:

- . Suspicion
- . Complaint
- . Safeguarding concern or allegation from another member of staff
- . Disclosure made by a child, parent or other adult within or outside the school
- . Pre-employment vetting checks

We recognise the importance of responding to and dealing with any concerns in a timely manner to safeguard the welfare of children.

### **10.1 Definition of low-level concerns**

The term 'low-level' concern is any concern – no matter how small – that an adult working in or on behalf of the provision 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 designated officer at the local authority

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

- . Being overly friendly with children
- . Having favourites
- . Taking photographs of children on their mobile phone
- . Engaging with a child on a one-to-one basis in a secluded area or behind a closed door
- . Humiliating pupils

### **10.2 Sharing low-level concerns**

We recognise the importance of creating a culture of openness, trust and transparency to encourage all staff to confidentially share low-level concerns so that they can be addressed appropriately.

We will create this culture 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
- . Empowering staff to share any low-level concerns as per section 3.3 of this policy
- . Empowering staff to self-refer
- . 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
- . Helping to identify any weakness in the provision's safeguarding system

- Clover Learning Community will ensure staff or volunteer are encouraged to share their concerns. Our learning community has an 'open door' culture for both staff and students. The head of centre and DSL will work to ensure procedures are followed to ensure all concerns are dealt with appropriately. All matters raised will be dealt with confidentiality.

### **10.3 Responding to low-level concerns**

If the concern is raised via a third party, the head of centre will collect evidence where necessary by speaking:

- Directly to the person who raised the concern, unless it has been raised anonymously
- To the individual involved and any witnesses

The head of centre will use the information collected to categorise the type of behaviour and determine any further action, in line with the provision's staff code of conduct. The head of centre will be the ultimate decision-maker in respect of all low-level concerns, though they may wish to collaborate with the DSL and other relevant agencies (if relevant). All concerns will be dealt with on a case-by-case basis.

### **10.4 Record keeping**

All low-level concerns will be recorded in writing. In addition to details of the concern raised, records will include the context in which the concern arose, any action taken and the rationale for decisions and action taken.

Records will be:

- Kept confidential, held securely and comply with the DPA 2018 and UK GDPR
- 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, where a pattern of behaviour moves from a concern to meeting the harms threshold as described in section 1 of this appendix, we will refer it to the designated officer at the local authority
- Retained at least until the individual leaves employment at the school

Where a low-level concern relates to a supply teacher or contractor, we will notify the individual's employer, so any potential patterns of inappropriate behaviour can be identified.

### **10.5 References**

We will not include low-level concerns in references unless:

- The concern (or group of concerns) has met the threshold for referral to the designated officer at the local authority and is found to be substantiated; and/or
- The concern (or group of concerns) relates to issues which would ordinarily be included in a reference, such as misconduct or poor performance