

Managing Allegations Against Staff Procedures/Volunteers Policy



Policy Number:	SA02	Originator:	Lukasz Miecznikowski
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1. Aim

The overriding obligation of the staff/volunteer at the Greater Horseshoe School is to provide a safe environment for our children/young people and to take appropriate action to make sure they are kept safe. This requires the Greater Horseshoe School to identify instances in which there are grounds for concern about the conduct or practice of a member of staff/volunteer. If an allegation of abuse is made against a member of staff/volunteer they can expect to be treated fairly. The Greater Horseshoe School recognises and accepts that it has a duty to ensure that they are treated fairly and reasonably and to apply principles of natural justice.

This policy follows the framework for managing cases of cases of allegations of abuse against people who work with children as set out in Working Together to Safeguard Children 2018.

2. Outcome

Investigations into allegations or suspicions of harm are handled fairly, quickly and consistently in a way that provides effective protection for children, the person making the allegation, and at the same time supports the person who is subject of the allegation.

3. Objectives

The objectives of this policy are that:

- all allegations are taken seriously
- any allegation of abuse against a member of staff, or a volunteer, is dealt with fairly, quickly and consistently
- investigations into allegations are handled in a way that provides effective protection to the child/young person and at the same time supports the person who is subject of the allegation.

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4. Procedures and practice

The Safeguarding procedures should be followed in the event of any person believing that a child may be at risk.

The Greater Horseshoe School's procedure for managing cases of allegations of abuse should be followed in all cases where there is an allegation that a member of staff or a volunteer has:

- behaved in a way that has harmed or may have a child
- possibly committed a criminal offence against or related to a child or
- behaved in a way which indicates he/she is unsuitable to work with children.

These practice guidelines are in line with Government guidance reflecting the Wiltshire Local Safeguarding Children's Board (LSCB) procedures and guidance, together with the multi-agency protocol 'Children Living Away From Home' (2003) and 'Working Together to Safeguard Children 2015'. A copy of the guidance issued by the DoH 'What To Do If Your Worried That A Child Is Being Abused' is held in each Enhanced Childrens Services establishment.

Any concerns about the behaviour of any adult working within the school towards a child should be brought to the attention of the Head Teacher – Lukasz Miecznikowski Mob: 07592504811, or Jason Goddard Mob: 07388948831 without delay.

5. Guiding principles

The important points in the managing of allegations include:

- Procedures need to be applied with common sense and judgement
- All allegations, including those appearing not to be serious, must be seen to be followed up, taken seriously and examined objectively
- Parents or carers of the child or children involved should be told about the allegation as soon as possible and kept informed of developments. This includes the outcome of any disciplinary hearing but details of the deliberations at a disciplinary hearing should not be disclosed
- The accused member of staff/volunteer should also be informed as soon as possible and then be kept informed of the progress of the case. In cases where a strategy meeting is needed the member of staff/volunteer cannot be informed until the other agencies have been consulted and agree what information can be given
- If the member of staff/volunteer has been suspended they should be kept informed of developments at the establishment
- The fact that the member of staff/volunteer resigns should not prevent an allegation being followed up. Compromise agreements under which the member of staff/volunteer agrees to resign and the establishment agrees not to pursue disciplinary action should not be used.

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6. Initial consideration of an allegation

The Safeguarding and Child Protection Procedures will be followed in ALL instances where an allegation has been made of suspicion of harm against a child.

7. Action following initial consideration of the allegation

The LADO meeting will make a recommendation of what action may be necessary following an allegation. If it is clear that all police and social service investigation have completed then the Greater Horseshoe School will consider what, if any action it will take. If the nature of the allegation does not require formal disciplinary action, the Director for Education and Learning will institute appropriate action as quickly as possible. This could be an informal reprimand or agreed support/training for the member of staff/volunteer. This should normally take place within 3 working days. If a disciplinary hearing is required and can be held without further investigation, that hearing should be held as quickly as possible and within 15 working days.

Where further investigation is required under the disciplinary procedure an investigating officer will be appointed to undertake that investigation. The investigating officer should aim to provide a report within 10 working days or if not as soon as is reasonably practicable.

8. Case subject to police investigation

If a criminal investigation is required the Greater Horseshoe School will normally wait for the outcome of the investigation before considering internal action. There can be long delays in the police investigation into a possible crime. The police carry out the investigation but the decision whether or not to proceed with a prosecution is made by the Crown Prosecution Service (CPS) when it has considered the results of the police investigation. The police aim to complete their enquiries as quickly as possible consistent with a fair and thorough investigation and will keep the progress of the case under review. This should include target dates for reviewing progress of the investigation and consulting the CPS about whether to proceed with the investigation, charge the individual with an offence, or close the case.

If the police and/or CPS 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 then pass all the information they have which may be relevant to a disciplinary case to the Greater Horseshoe School via the local authority. If children's social care has undertaken enquiries to determine whether the child is in need of protection, any information obtained from those enquiries which is relevant to a disciplinary case should also be passed to the Greater Horseshoe School. It is therefore important that the Greater Horseshoe School has a clear line of communication with the Police Officers involved so that they can be kept informed of progress.

9. Suspension

Suspension should not be an automatic response to an allegation. This step should be considered in any case where there is cause to suspect a child is at risk of significant harm, the allegation warrants a police investigation or if the allegation is so serious that it could be grounds for dismissal. However, a member of staff should not be automatically suspended if an allegation is made and other options should be considered. These could include moving to work that does not involve contact with children/young persons or leave of absence.

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The member of staff/volunteer will be called to a meeting if suspension is being considered so that the reason why suspension is being considered can be fully explained and the member of staff/volunteer given an opportunity to respond to the proposed suspension. The status of suspension should always be fully explained to the member of staff/volunteer. Suspension is a neutral act, it does not prejudice the outcome of the investigation and if suspension is confirmed that should be explained to the member of staff/volunteer at a meeting and in the suspension letter. The member of staff/volunteer will be invited to bring a colleague or union representative to that meeting and should be given an assurance at the meeting and in writing that the period of suspension will be kept to a minimum.

Enhanced Childrens Services recognize that being the subject of allegations of abuse and the resultant process is inherently stressful for the member of staff/volunteer concerned and that suspension is likely to compound this stress. The establishment has a duty of care to its employee and will offer support to manage and minimise the inherent stress. The guiding principle is that the suspended member of staff/volunteer should be treated like any other employees. Arrangements will be put in place to give the member of staff/volunteer regular information about the progress of the case and also important events at work. A member of staff/volunteer who is suspended cannot come onto Enhanced Childrens Services premises without permission but it will be made clear that there is no bar on social contact with colleagues or friends unless there is a specific risk of this prejudicing enquiries in to the allegation.

10. Confidentiality

Every effort will be made by Enhanced Childrens Services to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. 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.

11. Returning to work

Unless dismissal or other termination of employment is the outcome of the case the member of staff/volunteer who has been suspended can be reinstated. In advance of the return to work Enhanced Childrens Services and the member of staff/volunteer should discuss how best to facilitate that. Recognising that the experience will have been very stressful the member of staff/volunteer will be offered help and support to return to work. This could include a phased return and/or the provision of a mentor for short term assistance and support. This may include additional supervision sessions with the staff/volunteer member. The member of staff/volunteer may wish to continue with welfare counselling that started during the suspension or to have short term counselling support. It is inevitable that the member of staff/volunteer will have lost confidence in working with child/young persons and this will need to be rebuilt. If the member of staff/volunteer has concerns about contact with the child/young person or child/young persons who made the allegation those concerns will need to be seriously considered. There may have been a serious breakdown of trust with the child/young person concerned, an undermining of authority or the allegation may have caused an irresolvable conflict.

12. Disciplinary action and dismissal

All decisions reached at the end of a disciplinary process, including dismissal, should satisfy the four stage test referred to in employment tribunal case law:

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- Did the employer have a genuine belief that the employee was guilty of the misconduct in question?
- Did the employer have reasonable grounds to sustain that belief?
- Had he carried out as much investigation as was reasonable?
- Was the sanction a fair sanction?

The panel considering a disciplinary case must consider all the relevant evidence presented to them and decide on the balance of probabilities whether the employee's behaviour has posed or could pose a risk to children to whom the establishment owes a duty of care. Also relevant is whether the employee's behaviour has compromised or could be seen to have compromised the ability and reputation of the establishment to safeguard children by a failure to uphold the standards expected of staff/volunteer. The disciplinary panel should have had no prior involvement that might prejudice their ability to hear the case fairly.

The fact that there has not been a criminal investigation or no charge or conviction is not a defence for an employee in a disciplinary proceedings. The disciplinary panel may have evidence before it which amounts to professional misconduct which leads to a questioning of the employee's suitability to work within a position of trust even when no criminal activity has been identified or the employee has been acquitted of criminal charges. The "balance of probability" test is a lower threshold than the burden of proof in criminal cases which requires the case to be proved "beyond reasonable doubt". "On the balance of probabilities" means more likely than not.

13. Resignations

The fact that a person resigns from Enhanced Childrens Services, or in the case of an agency staff/volunteer member ceases to provide their services, will not prevent an allegation being followed up in accordance with our procedures. Every effort should be made to reach a conclusion in all cases of allegations bearing on safeguarding issues even if the member of staff/volunteer concerned refuses to cooperate with the process. The member of staff/volunteer will be given a full opportunity to answer any allegation and make representations about it, but if he/she refuses to co-operate the process should continue on the basis of all the information available. Whilst it is recognized that it may be difficult to reach a conclusion in those circumstances, and that if the member of staff/volunteer may resign and leave before any disciplinary sanctions can be applied it is nevertheless important that Enhanced Childrens Services reaches and records a conclusion wherever possible.

14. Referral to the Disclosure & Barring Service (DBS)

The Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) have merged into the Disclosure and Barring Service (DBS). CRB checks are now called DBS checks.

Jobs that involve caring for, supervising or being in sole charge of children or adults require an enhanced DBS check (previously called an enhanced CRB check).

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This includes checking whether someone is included in the 2 DBS 'barred lists' (previously called ISA barred lists) of individuals who are unsuitable for working with:

- children
- adults

If at the conclusion of the case Enhanced Childrens Services ceases to use the person's services, or the person ceases to provide his/her services, Enhanced Childrens Services should consider whether a referral to the DBS is required. Employers have a duty to notify the DBS of relevant information about individuals who could pose a threat to children. The DBS maintains a list of individuals barred from engaging in regulated activities with children. The referral should include sufficient information to support the reasons for our actions and to show that the disciplinary procedures were correctly followed.

If after due process, which includes giving the individual the right to make written representations, the individual is subsequently barred they are notified in writing and all organisations with a registered legitimate interest in the individual are notified. Once barred an individual is not allowed to work in a regulated activity with children and there are legal sanctions against the individual and an employer allowing a barred person to engage in regulated activity.

15. Records

Enhanced Childrens Services will ensure a clear and comprehensive summary of any allegations made against the staff/volunteer member, including details of how the allegation was followed up and resolved, a record of any action taken and the decisions reached, is kept on the staff/volunteer member's personnel file. A copy of this will be provided to the staff/volunteer member as soon as possible following the completion of the investigation.

This record is kept on the member of staff/volunteer's confidential personnel file until the person reaches normal retirement age or for 10 years if that is longer. The record is used to give an accurate response to a future request for a reference for further employment or to clarify any information on an Enhanced DBS Disclosure.

16. Rationale

Handling allegations against staff/volunteer, particularly serious ones, is a complex and delicate process. It is essential that Enhanced Childrens Services follow this procedure closely taking expert advice and assistance at all stages. This provides effective protection for the child and also supports the person against whom the allegation has been made.

The policy and procedure for dealing with allegations against staff/volunteer should incorporate the principles of natural justice that underpin disciplinary procedures. These principles are that:

- Issues are raised promptly and meetings and decisions should not be unreasonably delayed
- Employers act consistently
- Employers carry out necessary investigations to establish the facts
- Employers should inform employees of the basis of the problem and give them an opportunity to put their case in response before any decisions are made
- Employees are given the right to be accompanied at formal disciplinary hearings.

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Staff/volunteer are able to access The South West Safeguarding and Child Protection policies and procedures by logging on to:

www.onlineprocedures.co.uk

Staff/volunteer are able to access each authority policy by clicking on the required councils logo.

17. Equality Impact Statement

All relevant persons are required to comply with this policy and must demonstrate sensitivity and competence in relation to diversity in race, faith, age, gender, disability and sexual orientation. If you, or any other groups, believe you are disadvantaged by this policy please contact the Group Director for Education and Learning. Enhanced Children's Services will then actively respond to the enquiry.

This policy is written by Lukasz Miecznikowski

Date: 1st of May 2020

Signed 

This policy is quality assured by Jason Goddard, Group Director for Education and Learning.

Signed: 

Date: 1st of June 2020

The policy is quality assured by Governor: