

Statement of Procedures for Dealing with Allegations of Abuse Against Staff

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NORFOLK LSCB PROTOCOL 8.3 ALLEGATIONS AGAINST STAFF, CARERS AND VOLUNTEERS DIVERSITY STATEMENT

1. INTRODUCTION

- 1.1 This policy outlines the Academy's responsibility for dealing with allegations of abuse made against Academy staff, whether those staff are paid or unpaid.
- 1.2 As stated in the Part 1 Policy statement, the Academy follows the Norfolk Safeguarding Board Protocol 8.3 when allegations or concerns of abuse are identified.

2. AIMS AND OBJECTIVES

- 2.1 This two-part policy defines the procedures for dealing with allegations of abuse against Academy staff in order to:
 - Ensure allegations are listened to, investigated and responded to quickly and effectively.
 - Ensure allegations are dealt with by the appropriate personnel.
 - Ensure outcomes of allegations are communicated in a timely manner to all relevant parties.

3. SCOPE

- 3.1 This is a 'Part 2 Attleborough Academy Policy in Practice'. As such, it provides the protocol to be followed by Attleborough Academy, Norfolk acting on the Part 1 Norfolk Academies Multi-Academy Trust Policy:

"Dealing with Allegations of Abuse Against Staff"

- . Part 2 policies state the procedure followed by the individual institutions relating to this policy.

As stated in our Policy Statement, Attleborough Academy Norfolk follows the Norfolk Safeguarding Children Board Policies and Procedures. Section 8.3 of the manual is the protocol to be followed when dealing with Allegations Against Persons Who Work With Children.

NORFOLK SAFEGUARDING CHILDREN BOARD ALLEGATIONS AGAINST PERSONS WHO WORK WITH CHILDREN

1. Scope

All allegations of abuse of children by those who work with children must be taken seriously.

For the purposes of this protocol, the following definitions apply:

- A child is anyone under the age of 18;
- An employee is anyone working with children, be it in an employed (all sectors and settings) or voluntary capacity;
- An employer is anyone working with or providing services to children (all sectors and settings).

The scope of this inter agency procedure is not limited to allegations involving Significant Harm or suffering or likely to suffer Significant Harm to a child. The procedure should be applied in all situations where it is alleged that a person who works with children has:

- Behaved in a way which has harmed a child, or may have harmed a child;
- Possibly committed a criminal offence against or related to a child; or
- Behaved towards a child or children in a way that indicates they may pose a risk of harm to children.

Whilst some behaviours may not constitute a criminal offence, and some may not reach the threshold of Significant Harm, consideration will need to be given as to whether they may indicate unsuitability to work with children. Any such behaviour should be considered within the context of the four categories of abuse i.e. physical, sexual and emotional abuse and neglect.

These include concerns relating to inappropriate relationships between members of staff and children or young people:

- Having a sexual relationship with a child under 18 if in a position of trust in respect of that child, even if consensual;
- Grooming, i.e. meeting a child under 16 with intent to commit a relevant offence;
- Other 'grooming' behaviour giving rise to concerns of a broader child protection nature e.g. inappropriate text/email messages or images, gifts, socialising etc;
- Possession of indecent photographs/pseudo-photographs of children;
- Qualified/unqualified staff becoming involved in a relationship with an ex pupil under the age of 18, who is no longer at the school;
- Sexual Exploitive behaviour;
- Inappropriate Physical restraint or physical harm to a child.

Reference may be made to the DfES 'Guidance for Safer Working Practice for Adults who work with Children and Young People' and 'Safeguarding Children and Safer Recruitment in Education'. The allegations may relate to the person's behaviour at work, at home or in another setting.

It may concern, for example, a paid employee, unpaid volunteer, child-minder, approved foster carer or prospective adopter.

In the context of this procedure, the term "employer" means the organisation that has a working relationship with the person against whom the allegation has been made and includes voluntary organisations, employment agencies, fostering services, child minder services, youth clubs and others.

Allegations of historical abuse should be responded to in the same way as contemporary concerns. In such cases, it is important to find out whether the person against whom the allegation is made is still working with children and if so, to inform the person's current employer or voluntary organisation or refer their family for assessment.

Where concerns arise about a person's behaviour in relation to their own children, the Police and Children's Social Care need to consider informing the person's employer in order to assess whether there may be implications for children with whom the person has contact at work, in which case this procedure will apply.

2. Key Roles and Responsibilities

2.1 Local Authority Designated Officers

The Local Authority must appoint a Designated Officer(s) (LADO) whose responsibilities are:

- To be involved in the management and oversight of individual cases from all partner agencies of the LSCB which fall within this procedure;
- To provide advice and guidance to employers and voluntary organisations;
- To provide advice and guidance to Senior Managers (see Section 2.3, Senior Manager) about the operation of this procedure;
- To liaise with the Police and other agencies;
- To monitor the progress of cases – to ensure that they are dealt with as quickly as possible within set timescales and consistent with a thorough and fair process; and
- To keep records of all advice given, actions taken and decisions made;
- To maintain information databases in relation of all allegations and produce qualitative and quantitative reports for the LSCB and Department for Education;
- Chairing Strategy Meetings and liaising with chairs of Strategy Meetings (if not chairing) (see Section 11, Strategy Meeting);
- To contribute to LSCB inter agency training programmes and awareness raising across all agencies;
- To provide assistance to agencies in the discussion regarding suspension (the power to suspend is vested in the employer alone);
- To liaise with the Police and the Crown Prosecution Service;

- To discuss with the Senior Manager the possibility of referral to the Disclosure and Barring Service, or to the appropriate Regulatory Authority (see Section 14, Action Following a Criminal Investigation or a Prosecution).

2.2 Named Senior Officer

Norfolk Safeguarding Children Board must appoint a Named Senior Officer to have overall responsibility for ensuring that their agency operates procedures for dealing with allegations against those who work with children in accordance with the guidance set out in Working Together to Safeguard Children 2015. The responsibilities of the Named Senior Officer include:

- Ensuring that their organisation complies with the standards identified and agreed by the LSCB for managing allegations as outlined within the Working Together to Safeguard Children 2015;
- Ensuring that this LSCB procedure for managing allegations is reflected and implemented within their own agency procedure;
- Ensuring that the work force is aware of and implements this procedure in relation to all allegations against those who work with or on behalf of children;
- Ensuring that the organisation has systems in place to review cases and identify and implement any changes, therefore improving procedures and practice;
- Resolving any inter-agency issues which impede the implementation of LSCB procedures;
- Ensuring that the key roles of Named Senior Officer, Local Authority Designated Officer and Senior Manager (employer) are reflected in their agency policy and procedure;
- Ensuring that effective reporting and recording arrangements within their agencies are in place.

2.3 Senior Manager

Each employer must appoint a Senior Manager who has overall responsibility for ensuring that this procedure is followed at an operational level. This person may be, or may represent, the employer. The responsibilities of the Senior Manager include:

- Ensuring that this procedure is properly applied and implemented;
- Providing advice, information and guidance for staff within the organisation;
- Being the senior manager within the organisation to whom all allegations or concerns are reported;
- Liaising with the Local Authority Designated Officer (LADO) as required under this procedure;
- Referring allegations in accordance with the organisation's and this procedure;
- Gathering any additional information which may have a bearing on the allegation e.g. previous known concerns, care and control incidents, etc;
- Providing the subject of the allegation with information and advising them to inform their union or professional body;
- Should the allegation be unfounded, considering, in consultation with the LADO, the need to make a referral to Children's Social Care Services for support or to the Police if the allegation is deemed to be deliberately malicious or invented;

- Attending Strategy Meetings where required (see Section 5, Strategy Meeting);
- Liaising with Human Resources where the employer's disciplinary action is required;
- Ensuring that risk assessments are undertaken where and when required;
- Ensuring that effective reporting and recording systems are in place which allow for the tracking of allegations through to the final outcome;
- Undertaking appropriate checks with data the agency may hold;
- Providing reports and information as required by the Named Senior Officer;
- Raising the awareness of the need to empower children and young people who are in vulnerable positions by ensuring their agency produce good whistle blowing and complaints procedures for all children;
- Ensuring appropriate and relevant training programmes are in place for and accessed by all staff;
- Ensuring relevant support programmes are in place for staff, parents and children/young people.

The employer must also identify an alternative person to whom reports should be made in the absence of the nominated Senior Manager, or in cases where that person is the subject of an allegation or concern.

2.4 The Police – Key Officers

The Chief Superintendent (or designated deputy) of the Vulnerability and Partnerships Command will:

- Have Strategic oversight of the local police arrangements for managing allegations against staff and volunteers;
- Liaise with LSCB on the issue;
- Ensure compliance.

The Vulnerability and Partnerships Command should designate a Detective Inspector (or designated deputy). This may be an officer from another unit where they lead on the investigation) to:

- Liaise with the LADO;
- Take part in Strategy discussions;
- Review the progress of cases in which there is a police investigation;
- Share information, as appropriate, on completion of an investigation or related prosecution.

3. Responding to Allegations

All organisations which provide services to children, or provide staff or volunteers to work with or care for children, should operate a procedure for handling allegations that fall within this procedure in a way which is consistent with the guidance set out in Working Together to Safeguard Children 2015.

Where such allegations are made, consideration must be given to the following three strands:

1. The police investigation of a possible criminal offence;
2. Enquiries and assessment by Children's Social Care Services as to whether the child is in need of protection or in need of services;
3. Consideration by an employer of disciplinary action in respect of the individual.

4. Initial Considerations

All allegations within this procedure that come to the employer's attention should be notified to the Local Authority Designated Officer (LADO) within one working day.

Contact with the LADO needs to be made before any contact is made either with the person subject to the allegation or the child and parent/carer. This is to ensure that the correct action is taken which will not impede the disciplinary or investigative processes.

The LADO will discuss the matter with the Senior Manager and where necessary obtain further details of the allegation and the circumstances in which it was made.

The Police should be consulted, in any case where a criminal offence may have been committed, as soon as practicable. The Strategy discussion with the MASH should be undertaken to ensure that any live safeguarding or investigative procedures are implemented.

If there is reasonable cause to suspect that a child is suffering or is likely to suffer Significant Harm, the LADO will immediately refer the matter to Norfolk MultiAgency Safeguarding Hub (MASH) to arrange for a strategy discussion to take place.

Within this discussion, which will include the Police and Children Services, decisions will be made as to who will inform the parent/child and alleged perpetrator and timescales will be agreed. This discussion will need to reach an agreement about what information can be disclosed to the alleged perpetrator.

In any case where there is a Section 47 Joint Investigation or a live Police investigation the Police should be represented at the LADO strategy meeting. In other cases the Police should be consulted pre or post meeting as appropriate on any identified criminal concern.

In the event of a Strategy Meeting being held, then this should be convened as soon as possible and include the LADO (usually as chair) and the Senior Manager (see below – Section 5, Strategy Meeting).

5. Strategy Meeting

Wherever possible, a strategy discussion should take the form of a meeting, but on occasions a telephone discussion may be justified. The LADO will need to ensure that the relevant people are invited to a Strategy Meeting and any follow up meetings to ensure that the full scope of the enquiry can be effectively addressed.

The following is a list of possible participants (anyone implicated or potentially implicated in the allegation should not be involved):

- The LADO;
- Relevant Social Worker and his /her manager;
- Police Sergeant or Inspector rank;
- Designated senior manager for the employer concerned;
- Human Resources representative;
- Legal adviser where appropriate;
- Senior representative of the employment agency or voluntary organisation if applicable;
- Manager from the Fostering Service Provider when an allegation is made against a foster carer;
- Supervising social worker when an allegation is made against a foster carer;
- Those responsible for regulation and inspection where applicable;
- Health representation where appropriate;
- Where a child is placed or resident in the area of another authority, a representative(s) of relevant agencies in that area;
- Complaints officer if the concern has risen from a complaint;
- Representation from Governor Services where allegations is about a Head Teacher;
- Senior Manager from Early Years, if allegation relates to an early years setting.

Notifications will be required to be made to OFSTED, regarding day care and child-minders, residential staff, foster carers and prospective adopters.

The Strategy Meeting will be chaired by the LADO (or his/her nominated representative).

The Strategy Meeting will need to:

- “To decide whether there are grounds to initiate a S47 enquiry and for the police to discuss the basis for any criminal investigation”;
- Consider whether any parallel disciplinary process can take place and agree protocols for sharing information;
- Consider the current allegation in the context of any previous allegations or concerns;
- Share all relevant information about the person who is the subject of the allegation and about the alleged child victim;
- Plan the investigation/enquiries and set timescales for tasks to be undertaken;
- Consider whether any other children are affected by the allegations e.g. the persons own children or other children in the agency setting for example children placed with foster carers, child-minders, a youth club, grandchildren;
- Determine any action that needs to be taken in respect of any other children identified including Section 47 Enquiry;
- Decide how regular information and support will be provided to the child and family and by whom;
- Ensure that the person who is the subject of the allegation is kept informed and supported;

- Plan all interviews and agree who should undertake them so that there is no confusion between a criminal investigation, Section 47 Enquiry and disciplinary processes;
- Consider whether the circumstances suggest that the person who is subject to the allegation should be suspended from contact with children, so as to inform the employers decision about this issue (including whether a foster carer's approval should be suspended and the implications for other children in the placement); this may change as the investigation progresses and should be reviewed regularly;
- Consider issues for the attention of senior management e.g. media interest, resource implications;
- Consider whether a Complex Abuse investigation is applicable.

The progress of the investigation and enquiries needs to be reviewed by the LADO having regard to target timescales.

This relates to the alleged perpetrator and the alleged victim and his/her parents.

This will be agreed in either the Strategy discussion, or in discussion between the LADO AND Senior Management.

This includes making decisions about how and by whom they should be informed of the progress of the case and the outcome.

6. Post Investigation

A final strategy meeting should be held to ensure all tasks have been completed and an adjudication on the Outcome of the allegation will be made, and, where appropriate, agree an action plan for future practice based on lessons learnt.

A referral to the DBS is made by the employer or volunteer manager only when both the harms test and the person has been dismissed /resigned/ removed from regulated activity.

7. Suspension

The possible risk of harm to children posed by an accused person needs to be evaluated and managed effectively – in respect of the children involved in the allegations, and any other children in the individual's home, work or community life. In some cases, this requires the employer to consider suspending the person. Suspension should be considered in any case where there is cause to suspect a child is suffering or likely to suffer Significant Harm or the allegation warrants investigation by the Police, or is so serious that it might be grounds for dismissal.

A person must not be suspended automatically or without careful thought and it should not be considered as a default option. Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children until the allegation is resolved.

Neither the Local Authority Designated Officer (LADO) nor the Police nor Children's Social Care Services can require an employer to suspend a member of staff or volunteer. The power to suspend is vested in the employer alone.

However, where a Strategy Meeting or initial evaluation discussion concludes that there should be enquiries by Children's Social Care Services and/or investigation by the Police, the LADO should canvass the Police and Children's Social Care Services as to their views about whether the accused member of staff needs to be suspended from contact with children, so as to inform the employers consideration of suspension. If suspension is deemed appropriate, the reasons and justification should be recorded and the individual notified of the reasons.

If the alleged perpetrator is a member of a union or a professional body the senior manager should advise them to seek support from that organisation. If the person is suspended the Senior Manager should make arrangements to keep the individual informed about the developments in the work place.

Some allegations may be less serious and at first sight might not seem to warrant consideration of a police investigation or enquiries by Children's Social Care Services. However, it is important to ensure that even apparently less serious allegations are followed up and examined objectively by someone independent of the organisation. Consequently the LADO should be informed of all allegations that come to the employer's attention and appear to come within the scope of this procedure (see Section 1, Scope) so that he or she can consult Police and social care colleagues as appropriate.

8. Direct Referrals to the Police/Children's Social Care

Where a referral is made directly to Children's Social Care, they will consult with the Local Authority Designated Officer (LADO), the Police and the Senior Manager in the relevant agency or organisation.

If a referral is made to the Police first, the officer who receives it should report it to the Multi-Agency Safeguarding Hub (MASH) without delay and he/she should in turn inform the LADO.

9. Cross Boundary Issues

Where a child from Norfolk Local Authority makes an allegation in a setting or placement which is outside their own area, the lead responsibility for action lies with the local authority for the area where the alleged abuse occurred. In these circumstances, the Local Authority Designated Officer and, where appropriate, the child's social worker will liaise with the relevant local authority and agree a joint strategy.

Checks should be made as to whether there are any other children in the setting or placement. If so, the child's social worker and manager must be informed, and the Local Authority Designated Officer should consult them about the action required. Interviews of children from Norfolk Local Authority area will usually be undertaken by their own local Children's Social Care Services in conjunction with the Police as appropriate.

Where the referral relates to a child from another local authority temporarily placed in an establishment located within Norfolk Local Authority Area's area, for example a boarding school, the Local Authority Designated Officer should liaise with the child's home authority about the roles and responsibilities in carrying out this procedure.

10. Allegation/Concern Identified in Organisations

Where the involvement of Children's Social Care Services is not required as the child is not believed to be suffering or likely to suffer Significant Harm but a police investigation will continue, the Local Authority Designated Officer (LADO) should conduct a discussion with the Police, the Senior Manager and any other agencies involved with the child to evaluate the allegation and decide how it should be dealt with. This discussion should take place within one working day and must consider how to take matters forward in a criminal process parallel with a disciplinary process or whether any disciplinary action will need to await the completion of the police enquiries and/or prosecution. In any on going police investigation the police should provide dates for significant investigative milestones (Forensic Results, Answering Bail, Charging to Court) to enable the LADO to set realistic timescales.

Where a decision is made that neither Children's Social Care Services nor the Police are required to continue any involvement, the LADO should discuss next steps with the employer's Senior Manager in sufficient time so that appropriate action can be taken within three working days. In those circumstances options open to the employer range from taking no further action to suspension (see Section 7, Suspension), summary dismissal or a decision not to use the persons services in future.

Where a disciplinary hearing is required and can be held without further investigation, this should take place within 15 working days.

Where further investigation is required, the Senior Manager should discuss who will undertake what with the LADO. The Senior Manager or the nominated investigating officer should provide a report to the employer within 10 working days; the employer should decide whether disciplinary action is required within 2 working days and if a hearing is needed it should be held within 15 working days. The LADO should continue to liaise with the Senior Manager to monitor progress of the case and provide support/advice as required.

11. Restrictions on Identifying Teachers Against Whom Allegations of Criminal Misconduct Have Been Made

With effect 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 by, 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 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 restrictions in response to a request to do so. Breaching the reporting restrictions is a criminal offence.

The case manager 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. Please note that this provision applies only to teachers, not to other staff in educational establishments.

12. Resignations and Compromise Agreements

The fact that a person tenders his/her resignation, or ceases to provide their service, must not prevent the allegations being followed up in accordance with these procedures. 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, having been given a full opportunity to answer the allegation and make representations.

By the same token, 'compromise agreements' – by which a person agrees to resign, the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference – must not be used in these cases. In any event, such an agreement would not prevent a thorough Police investigation where appropriate, nor can it override an employer's statutory duty to make a referral to the Disclosure and Barring Service where circumstances so require.

13. Confidentiality and Record Keeping

Every effort should be made to maintain confidentiality and guard against publicity while an allegation is being considered or investigated.

Each agency should not provide any information to the press or media that might identify an individual who is under investigation, unless or until the person is charged, except in exceptional circumstances, e.g. an appeal to trace a suspect. In such cases, the reasons should be documented and partner agencies should have been consulted beforehand.

The child and parents or carers can be informed about the outcome of any disciplinary process but they do not have access to the deliberations of a disciplinary hearing nor the information taken into account in reaching the decisions in the hearing.

Employers must keep a clear and comprehensive record of any allegations made, details of how the allegation was followed up and resolved, and details of any action taken and decisions reached, on a person's confidential personnel file and give a copy to the individual. Such information should be retained on file, including for people who leave the organisation, at least until the person reaches normal retirement age or for 10 years if that will be longer.

The purpose of the record is to provide accurate information in response to any future request for a reference. Details of allegations that are found to be malicious should be removed from personnel records.

Each agency must take great care to ensure that the records they keep respect the confidentiality of the victim and/or the alleged perpetrator i.e. the child's file should contain limited information about the perpetrator and the perpetrator's file should contain limited information about the child victim.

14. Action Following a Criminal Investigation or a Prosecution

The Police or the Crown Prosecution Service (CPS) should inform the employer's Senior Manager and Local Authority Designated Officer (LADO) as soon as practicable when a criminal investigation and any subsequent trial are complete, or if it is decided to close an investigation without charge, or not to prosecute after the person has been charged.

In all circumstances the LADO should discuss with the employer's Senior Manager what further action is appropriate and agree how to proceed. The information provided by the Police and/or Children's Social Care Services should inform that decision.

Interested parties should be informed that access to the Police Information can be applied for through Norfolk Constabulary, Operations and Communications Centre, Falconers Chase, Wymondham, Norfolk NR18 OWW.

Action on conclusion of a case should include consideration of whether a referral to the Disclosure and Barring Service is required or advisable, and the form and content of a referral. If a referral is appropriate it should be made within one month. A referral to DBS needs to be made if there is a substantiated outcome and the person has been dismissed from their employment.

If the person is subject to registration or regulation by a professional body or regulator, for example by the Health and Care Professionals Council, General Medical Council, Ofsted etc. the LADO should advise on whether a referral to that body is appropriate.

If it is decided that a person who has been suspended from work can return, the employer must consider how best to facilitate that return. The employer must also consider how the person's contact with the child or children who made the allegation can best be managed if they are still in the work place.

15. Learning Lessons

At the conclusion of a case where the allegation has been substantiated, the Senior Manager, in consultation with the Named Senior Officer and the LADO, should review the circumstances of the case to determine whether there are any improvements to be made to the organisations procedures or practice to help prevent similar events for the future.

Any lessons from investigations and enquiries should be reported by the LADO on a regular basis.

In some cases, a Serious Case Review may be appropriate. This will be discussed at a Lessons Learnt meeting and appropriate referral/discussion had with the Chair of Serious Case Review Group.

16. Guidance on Retention of Records

It is important that employers keep a clear and comprehensive summary of any allegations made, details of how the allegations were followed up and resolved, and of any action taken and decisions reached. These should be kept in a person's confidential personnel file and a copy should be given to the individual.

Such information should be retained on file, including for people who leave the organisation at least until that person reaches normal retirement age, or for 10 years if that is longer. The purpose of the record is to enable accurate information to be given in response to any future request for a reference. It will provide clarification in cases where a future DBS disclosure reveals information from the police that an allegation was made but did not result in a prosecution or a conviction. It will also prevent unnecessary re investigation if, as sometimes happens, allegations resurface after a period of time.

17. Risk Assessments

Regarding DBS, with disclosures, current employees, prospective employees: If a DBS check comes in and states that there is a disclosure, the manager/head needs to see the certificate and have a discussion with the individual to ascertain if a risk assessment is needed. If it is required, they should send the risk assessment and a copy of the certificate (with the individual's consent) through to the DBS team /or HR Direct (Norfolk County Council) who will log it and pass the information to the LADO TEAM, who will complete the risk assessment.