

Managing Allegations Against Staff (Including Low Level Concerns) Policy

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V2.5	05.07.20	J Amerigo	W Turpin	Acceptance of changes/comments. Amend Dirs to Trustees.		
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Monitoring and Review

This policy is reviewed **annually** by the Policy Owner: **R Inchiliffe**

The scheduled review date for this policy is September 2024.

Values and Ethos

Our values and ethos are inclusive, and child centred. Our Trust is founded on the principles of inclusivity, diversity, and fairness, and they are fundamental to our delivery of exceptional learning experiences.

EVAT stands for:

- **Excellence** and high standards
 - a can-do culture and no-excuses ethos
- **Values driven** with a deep sense of purpose
 - putting children and young people first
 - behaving ethically
- **Ambition** and aspiration for all
 - irrespective of background or barriers – being truly inclusive
- **Teamwork**
 - we do more, better and faster, together

We are a village. We collaborate, with our learners, their families and our communities, to provide exceptional education so that all the children and young people we serve achieve the best possible outcomes.

Our Ethos is to:

- Create a nurturing and friendly atmosphere and provide an environment where everyone feels valued for who they are
- Bring out the best in every child and young person and meet the full range of their individual needs
- Provide different and unique experiences, challenges and activities
- Show tolerance and respect for each other
- Prepare our children and young people for lifelong learning
- Improve the life chances of every child and young person we serve.

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The following acronyms used in this policy:

CSCS – Children's Social Care Services

DBS – Disclosure and Barring Service

DSL – Designated Safeguarding Lead

DSMA – Designated Staff Member for Managing Allegations Against Staff

EVAT – Education Village Academy Trust

LADO – Local Authority Designated Officer (Note – this is also known as Designated Officer)

TRA – Teaching Regulation Agency

CM – Case Manager

Note – the term “child” refers to anyone under the age of 18.

1. Introduction

- 1.1. This Policy follows the DfE Statutory Guidance Keeping Children Safe in Education (KCSIE) Part Four: Allegations made against/concerns raised in relation to teachers and other staff.
- 1.2. This policy covers the process for dealing with allegations that meet the harm threshold, which are allegations where it is alleged that anyone working in the Trust, including employees, supply teachers, volunteers, and contractors, has:
 - *Behaved in a way that has harmed a child 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 they may 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, including transferrable risk, i.e., in relation to behaviour that may have happened outside of school that might make the individual unsuitable to work with children.*
- 1.3. For this policy the term “allegation” refers to allegations which meet the harm threshold.
- 1.4. This policy covers allegations against those working in on behalf of the Trust in a paid or unpaid capacity, including members of staff, direct supply teachers, volunteers, and contractors.
- 1.5. All employees of EVAT have a responsibility to be aware and understand this policy and undertake relevant training as directed by the Trust's Safeguarding Lead and/or line manager.
- 1.6. The Chief Operating Officer is the Trust's Designated Staff Member for Managing Allegations Against Staff (DSMA). In the absence of the Chief Operating Officer, the DSMA will be the People Director.

1.7. If any employee has any concerns or questions regarding the process, they can speak direct with the DSMA or with the relevant Case Manager for their particular Academy / Central Support Services (if applicable).

1.8. All allegations made towards a member of staff must be reported to the Chief Operating Officer (if applicable) and/or People Director by the relevant Case Manager.

2. Agency and Supply Workers

2.1. EVAT may have to deal with an allegation against an individual not directly employed by them, e.g., supply staff provided by an employment agency, where the Trust's disciplinary procedures do not fully apply.

2.2. Where this is the case, the Trust will ensure allegations are dealt with properly with the relevant supply agency. The Trust may decide to cease to use a supply teacher due to safeguarding concerns without finding out the facts and without liaising with the LADO and supply agency to determine a suitable outcome.

3. Case Manager

3.1. A "Case Manager" will lead any fact finding within their Academy or Central Services. Further information of who constitutes a CM can be found in section 4.1.

3.2. Depending on the nature of the allegation, any role which constitutes a CM can undertake fact finding. In some cases, it may be best practice that a CM from another Academy undertakes fact finding to ensure impartiality.

4. Reporting an Allegation

4.1. Everyone who comes into contact with children and their families has a role to play in safeguarding children. If you have a concern that a member of staff may have behaved inappropriately, or you have received information that may constitute an allegation or a low-level concern you must:

- *Report the facts to the following Case Managers;*
 - *Allegations regarding another member of staff, will be reported to the Executive Principal / Principal / Head of School / DSL / Deputy DSL.*
 - *For Springfield Academy, Gurney Pease Academy and Marchbank Free School, allegations regarding a Principal or Head of School should be reported to the Executive Principal.*

- *Allegations regarding the Executive Principal or Principal (Haughton Academy only) should be reported to the Chief Executive.*
 - *Allegations regarding the Chief Operating Officer should be reported to the Chief Executive.*
 - *Allegations regarding the Chief Executive should be made to the Chair of Trustees.*
 - *Allegations regarding a member of Central Support Services will be reported to the Chief Operating Officer.*
 - *Where a pupil makes a disclosure to a member of staff about the behaviour of another member of staff, staff must follow the reporting lines outlined above.*
- 4.2. All concerns will be listened to and managed appropriately; do not withhold information however trivial it may seem.
- 4.3. In the absence of the Case Manager, you must report the matter to the most senior person or DSL available, who will carry out the Case Manager's duties in their absence. If the allegation concerns the Case Manager, then the matter must be reported in line with point 4.1.
- 4.4. Make a signed and dated written record of your concerns, observations, or the information you have received and give it to the Case Manager straight away. This will also need to be saved onto the relevant system.
- 4.5. Always maintain strict confidentiality.
- 4.6. If the school has any doubt as to whether information which has been shared is a low-level concern, or whether it meets the harm threshold, the LADO must be consulted.
- 4.7. Staff must not:
- *Attempt to deal with the situation themselves.*
 - *Make assumptions, offer alternative explanations, or diminish or embellish the seriousness of the behaviour or alleged incidents.*
 - *Keep the information to themselves or promise confidentiality.*
 - *Take any action that might undermine any investigation or disciplinary procedure, such as disclosing confidential information, interviewing the alleged victim or potential witnesses, or informing the alleged perpetrator or parents/carers.*
- 4.8. In the event that a member of staff has found themselves in a situation which could be misinterpreted, might appear compromising to others, and/or on reflection they believe they have behaved in such a way that they consider falls below the expected professional standards, they should self-refer this to those with designated safeguarding responsibilities. The Trust is committed to

creating an environment where staff are encouraged and feel confident to self-refer.

5. Low Level Concerns

5.1. A low-level concern is any concern – no matter how small, and even if no more than causing a sense of unease or a 'nagging doubt' - that an adult working in or on behalf of the Trust 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.*

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

- *being over-friendly with children;*
- *having favourites;*
- *contacting pupils on social media;*
- *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; or,*
- *using inappropriate sexualised, intimidating or offensive language.*

5.2. If there is any doubt as to whether information which has been shared about a member of staff as a low-level concern meets the harm threshold, advice from Designated Officer will be sought. Any low-level concerns will be dealt with in accordance with KCSIE (part 4).

5.3. Where concerns are raised, the CM will collect as much evidence as possible, this will usually involve speaking:

- *directly to the person who raised the concern, unless it has been raised anonymously;*
- *to the individual involved and any relevant witnesses.*

5.4. The information collected will help to categorise the type of alleged behaviour and determine whether any further action needs to be taken.

5.5. All low-level concerns will be recorded in writing and saved on the relevant system. The record will include details of the concern, the context in which the concern arose, and any action taken. The name of the individual sharing their concern(s) will also usually be noted, if the individual wishes to remain anonymous then that should be respected as far as reasonably possible.

- 5.6. Records of low-level concerns raised will be retained until the individual leaves their employment/in accordance with the Trust's document retention schedule.

6. Allegations of Abuse Made Against Staff

- 6.1. This section applies to all cases in which it is alleged that a current member of staff or volunteer has met the harm threshold as stated in Section 1.2.
- 6.2. In accordance with KCSIE, the responsibility to manage allegations against staff is now extended to supply teachers and the Trust will ensure all allegations against supply teachers are dealt with appropriately and in line with this policy.
- 6.3. It applies regardless of whether the alleged abuse took place in the Trust. Allegations against a teacher who is no longer teaching and historical allegations of abuse will be referred to the police.
- 6.4. The Trust 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.

7. Confidentiality

- 7.1. The CM and LADO will discuss what information will be shared and with whom and when, alongside which actions will be taken to manage any possible breaches of confidentiality or press interest.
- 7.2. Reporting restrictions under the Education Act 2002 will be observed. Information regarding an allegation will only be shared with necessary parties on a need-to-know basis. Every effort will be made to protect the privacy of all parties involved in an allegation. Confidentiality will also be maintained to ensure a fair investigation can be undertaken.
- 7.3. All parties involved in an allegation will be made aware of the requirement to maintain confidentiality and guard against unwanted publicity about any allegations made against staff whilst investigations are in progress.
- 7.4. In circumstances where the Trust needs to make parents aware about an allegation, it will ensure parents and others are aware that there are restrictions on publishing information.
- 7.5. Breaches in confidentiality will be taken seriously and may warrant a separate investigation in line with the Trust's Disciplinary Policy.

7.6. The Trust will not provide the media with any information regarding an allegation and immediate advice will be taken from the Trust PR and Legal service providers.

8. Suspension

8.1. Suspension is a neutral act and will be considered only in cases where there is cause to suspect a pupil or other pupils are at risk of harm, or the case is so serious that it might be grounds for dismissal, or the investigation may be prejudiced or inappropriately affected by the individual remaining at work.

8.2. The following options will be considered by the CM in conjunction with the People Team before suspension is recommended:

- *Redeploying the member of staff to a different role, so that they do not have direct contact with the pupil or pupils concerned;*
- *Providing an assistant to be present when the individual has contact with pupils;*
- *Redeploying the member of staff to alternative work in the school so the individual does not have unsupervised access to pupils;*
- *Moving the pupil or pupils to classes where they will not come into contact with the member of staff – this decision will only be made if it is in the best interests of the pupil or pupils involved and takes account of their views;*
- *Temporarily redeploying the member of staff to another role in a different location, e.g. to an alternative academy within the Trust, where available*

8.3. In line with the Trust's scheme of delegation, the Chief Executive is required to authorise the suspension of any staff member.

9. Procedure For Dealing with Allegations

9.1. If a child has been harmed, there is immediate risk of harm to a child, or the situation is an emergency, the Police are to be contacted immediately before notifying the LADO.

9.2. Initial Fact Finding

9.2.1 In other cases, before contacting the LADO, the CM will conduct fact finding in line with Trust procedures to establish the facts to help them determine whether there is any foundation to the allegation. The CM will speak to the pupil in the first instance, then inform the accused individual or the concerns or allegations and interview them. In addition, they will collect any relevant information and speak to any witnesses (if applicable).

9.2.2. Where appropriate (in the circumstances described in Point 6.2), carefully consider whether suspension of the individual from contact with children at the

Trust is justified or whether alternative arrangements such as those outlined above can be put in place.

9.2.3. Once the case manager has conducted the basic enquiry, they will contact the LADO. The CM and LADO will discuss the nature, content and context of the allegation and decide if:

- *No further action is needed*
- *A strategy discussion should take place*
- *There should be involvement from the police*

9.2.4. 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, as well as what action should follow both in respect of the individual and those who made the initial allegation.

9.2.5. If it is decided that further action is needed, take steps as agreed with the LADO to initiate the appropriate action in the Trust and/or liaise with the police and/or children's social care services as appropriate.

9.3. Formal Investigation

9.3.1. Where it is clear that an investigation by the police or CSCS is unnecessary, or the strategy discussion or initial assessment decides that this is the case, the LADO will discuss the next steps with the CM.

9.3.2. An internal investigation will be undertaken in line with the Trust's Disciplinary policy with support from the People Team. The CM will not undertake the formal investigation.

9.3.3. The LADO will be kept updated regarding the ongoing investigation and any outcomes from this (if applicable).

9.4. Support for Those Involved

9.4.1. Any staff member subject to an allegation will be offered support from the People Team. EVAT has a duty of care to all staff and will:

- *Manage and minimise the stress caused by the allegation*
- *Inform the member of staff as soon as possible about the allegation, explaining the likely course of action, guided by the LADO, and the police where necessary*
- *Advise the member of staff to contact their trade union representative, or a colleague for support*
- *Appoint a named representative to keep the staff member informed about the progress of the case*

- *Provide access to counselling or medical advice where appropriate*

9.4.2. The welfare of the pupil(s) involved in an allegation will be paramount. Pupils involved will be fully supported in line with the Safeguarding Child Protection Policy. The parents of the pupil(s) involved in an allegation will be told about the allegation as soon as possible if they do not already know about it, unless notifying the parents would put the pupil at further risk. The CM will work with the LADO to agree who should be informed about the allegation.

9.4.3. Parents will be made aware of the requirement to maintain confidentiality and guard against unwanted publicity about any allegations made whilst investigations are in progress. Parents will be kept informed about the progress of the allegation, including the outcome and any action taken (if applicable).

10. Outcome of an Allegation

10.1. The following definitions will be used when determining the outcome of an allegation:

- **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 or cause harm to the person subject of the allegation*
- **False:** *There is sufficient evidence to disprove the allegation*
- **Unsubstantiated:** *There is insufficient evidence to either prove or disprove the allegation*
- **Unfounded:** *There is no evidence or proper basis which supports the allegation being made*

10.3. If an allegation is found to be **substantiated** and the member of staff is dismissed, resigns, or otherwise ceases to provide their services to the Trust, or the Trust ceases to use the person's services, the Trust has a legal duty to make a referral to the DBS. For teaching staff, the People Team will consider whether to refer the matter to the TRA to consider prohibiting the individual from teaching. The Trust will also make a referral to the DBS where it is considered an individual has engaged in conduct that harmed, or is likely to harm, a child, or if they otherwise pose a risk of harm to a child.

10.4. If an allegation is determined to be **unsubstantiated, unfounded, false, or malicious**, the LADO and the CM will consider whether the pupil and/or the person who has made the allegation needs help or may have been abused by someone else and this is a cry for help. If this is the case, the advice from the DSL (if CM is not a DSL) will decide whether a referral to CSCS needs to be made.

- 10.5. If a report is shown to be deliberately invented or malicious, the Trust will consider whether any disciplinary action is appropriate against the individual who made it, in line with the Disciplinary Policy and Procedure (staff) or Behaviour Policy (pupils).
- 10.6. Following an allegation concluded to be either unfounded, false, malicious or unsubstantiated, the Investigation Officer, CM, and if they were involved the LADO, will consider the facts and determine whether any lessons can be learnt and if improvements can be made to the Trust's procedures.
- 10.7. Some allegations may result in a criminal investigation taking place. The police will inform the LADO and the Trust when a criminal investigation and any subsequent trial is complete; or it is decided to close an investigation without charge; or it is decided not to prosecute after the person has been charged.

11. Record Keeping

- 11.1. 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 Trust will retain the records of the case on the individual's confidential personnel file and provide a copy to the individual*
- 11.3. 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. All records will be managed in line with the Trust's Data Protection Policy.
- 11.4. The records of any allegation that is found to be malicious will be deleted from the individual's personnel file.

12. Resignations and Settlement Agreements

- 12.1. If the employee leaves, resigns or ceases to provide their services during an investigation, the Trust will continue the investigation until completion.
- 12.2. The staff member subject to the allegation will be provided with opportunities to answer the allegation and make representations about it. The process of recording the allegation and supporting evidence and reaching a judgement on the allegation will continue even if the employee refuses to cooperate. The

employee will be notified of the conclusion of the allegation and sanctions that may be posed.

12.3. The Trust will not use a settlement agreement (a legal document which settles any and all claims normally in consideration of a financial payment) where there are allegations that indicate a person is a risk or poses a risk of harm to children or is deemed not suitable to work with children. If a settlement agreement is used, this will not prevent the Trust from:

- *Fulfilling its legal duty to refer cases to the DBS where the referral criteria are met*
- *Providing a fair, accurate and truthful reference that is not misleading to potential employers when requested*
- *Considering whether to make a referral to the Teaching Regulation Agency (TRA) where the criteria are met*

13. References

13.1. The Trust will ensure that any information provided confirms whether they are satisfied with the applicant's suitability to work with children, and only provide the facts of any substantiated safeguarding concerns or allegations that meet the harm threshold within any employment references.

14. Historical Allegations

14.1. If a former pupil makes an allegation to the Trust that they were abused as a child, they will be advised to report the allegation to the police. Non-recent allegations made by a pupil will be reported to the LADO in line with the Local Authority's procedures for dealing with non-recent allegations.

14.2. All pupils and staff will be made aware that abuse can be reported no matter how long ago it happened.

15. Public Sector Equality Duty (Equality Act 2010)

15.1. In preparing or amending this policy, the author has given due regard to the Public Sector Equality Duty; that is, they have considered any potential impact on people who share certain protected characteristics. These protected characteristics are defined as: race, disability, sex, age, religion or belief, sexual orientation, pregnancy and maternity and gender reassignment.