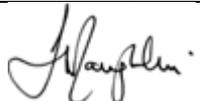




# The Heys School

## Managing Allegations (Statement of procedures for dealing with allegations of abuse against staff)

Prepared By:	R Evans
Date Reviewed:	June 2021
Next review Date:	June 2022
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Signed:	
Role (COG/CEO Trust)	I Mclaughlin
Signed:	

## Introduction

The Heys School is committed to providing the highest level of care for both its students and its staff. It is extremely important that any allegations of abuse against a teacher, any other member of staff, or volunteer in our school is dealt with thoroughly and efficiently, maintaining the highest level of protection for the child whilst also giving support to the person who is the subject of the allegation. Our policy is in line with statutory guidance from the Department of Education and is based around the guidance from **KCSI 2021**. This policy is designed to ensure that all staff, students and parents or carers are aware of the procedure for the investigation of allegations of abuse in order that all complaints are dealt with consistently, and as efficiently as possible.

We hope that having a clear procedure will help students to feel comfortable that they can voice concerns about any member of staff. Allegations will be reported to the headteacher immediately or to the chair of governors where the headteacher is the subject of concern. All allegations will be taken seriously and investigated immediately.

## Purpose

The procedure for dealing with allegations against staff depends on the situation and circumstances surrounding the allegation. This policy must be followed when dealing with allegations but may be adapted to each case. This policy will be used alongside the school's Complaints Policy and Child Protection and Safeguarding Policy.

This policy is about managing cases of allegations that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children in their present position, or in any capacity. It should be used in respect of all cases in which it is alleged that a teacher or member of staff (including volunteers) in a school or college that provides education for children under 18 years of age has:

- Substantiated: there is sufficient evidence to prove the allegation;
- Malicious: there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
- False: there is sufficient evidence to disprove the allegation;
- Unsubstantiated: there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

In the first instance, the headteacher, or where the headteacher is the subject of an allegation, the chair of governors, should immediately discuss the allegation with the designated officer.

## Initial Action by the Designated Senior Manager

The procedures for dealing with allegations need to be applied with common sense and judgment. When informed of a concern or allegation, the designated manager should not initially investigate the matter or interview the member of staff, child concerned or potential witnesses. They should:

- Obtain written details of the concern / allegation, signed and dated by the person receiving (not the child / adult making the allegation);
- Record any information about times, dates and location of incident/s and names of any potential witnesses;

- Record discussions about the child and/or member of staff, any decisions made, and the reasons for those decisions
- View CCTV if it is available
- The Senior leaders should consult the Local Authority Designated Officer (LADO Mark Gay - 0161 253 5342/ 07583877250). He should be informed within one working day when allegations appear to meet. Referrals should not be delayed in order to gather information.
- If staff have concern have any concerns about or an allegation is made about a staff member and there's a conflict of interest in reporting to the head teacher staff should report their concerns to the Load directly on the number above.

The purpose of an initial discussion is for the LADO and the case manager to consider the nature, content and context of the allegation and agree a course of action. It also alerts the LADO about cases that may also reach them via another route for example if the parent goes straight to the police or social care – allowing the LADO to have as full a picture as possible. To gain an overview the LADO may also want to know details of any previous complaints, any adult witnesses, any child witnesses, and noted injuries, any tensions between staff and parents and a clear idea of the time and location of when issues may have occurred.

This initial sharing of information and evaluation may lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern, in which case this decision and a justification for it should be recorded, by both the manager and the LADO, and agreement reached as to what information should be put in writing to the individual concerned and by whom. The manager should then consider with the LADO what action, including possible disciplinary action, should follow in respect of the individual and those who made the initial allegation.

The case manager should inform the accused person about the allegation as soon as possible after consulting the LADO. It is extremely important that the case manager provides them with as much information as possible at that time. However, where a strategy discussion is needed, or police or children's social care services need to be involved, the case manager should not do that until those agencies have been consulted.

If the allegation is not false and there is cause to suspect that a child is suffering or is likely to suffer significant harm, the LADO will immediately refer to children's social care and ask for a strategy discussion to be convened in accordance with the Working Together to Safeguard Children.

The purpose of an initial discussion is for the designated officer and the case manager to consider the nature, content and context of the allegation and agree a course of action. The designated officer may ask the case manager to provide or obtain relevant additional information, such as previous history, whether the child or their family have made similar allegations previously and the individual's current contact with children.

There may be situations when the case manager will want to involve the police immediately, for example if the person is deemed to be an immediate risk to children or there is evidence of a possible criminal offence. Where there is no such evidence, the case manager should discuss the allegations with the designated officer in order to help determine whether police involvement is necessary.

The initial sharing of information and evaluation may lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern; in which case this decision and a justification for it should be recorded by both the case manager and the designated officer, and agreement reached on what information should be put in writing to the individual concerned and by whom.

The case manager should then consider with the designated officer what action should follow both in respect of the individual and those who made the initial allegation. The case manager should inform the accused person about the allegation as soon as possible after consulting the designated officer. It is extremely important that the case manager provides them with as much information as possible at that time.

However, where a strategy discussion is needed, or police or children's social care services need to be involved, the case manager should not do that until those agencies have been consulted and have agreed what information can

be disclosed to the accused. Employers must consider carefully whether the circumstances of a case warrant a person.

We can and will use the definition of 'unfounded' to reflect cases where there is no evidence or proper basis which supports the allegation being made. Documentation will also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw or may not have been aware of all the circumstances.

## **Suspension**

The possible risk of harm to children posed by an accused person will be evaluated and managed in respect of the child(ren) involved in the allegations. In some rare cases that will require the case manager to consider suspending the accused until the case is resolved. Suspension will not be an automatic response when an allegation is reported: all options to avoid suspension will be considered prior to taking that step.

If the case manager is concerned about the welfare of other children in the community or the teacher's family, those concerns will be reported to the designated officer or police. Suspension should be considered only in a case where there is cause to suspect a child or other children at the school or college is/are at risk of harm or the case is so serious that it might be grounds for dismissal. However, a person will not be suspended automatically: the case manager must consider carefully whether the circumstances warrant suspension from contact with children at the school or college or until the allegation is resolved and may wish to seek advice from their personnel adviser and the designated officer.

In cases where the school or college is made aware that the Secretary of State has made an interim prohibition order in respect of an individual at the school or college, it will be necessary to immediately suspend that person from teaching pending the findings of the National College for Teaching and Leadership's (NCTL) investigation. The case manager will also consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements.

In many cases an investigation can be resolved quickly and without the need for suspension. If the designated officer, police and children's social care services have no objections to the member of staff continuing to work during the investigation, the case manager will be as inventive as possible to avoid suspension.

Based on assessment of risk, the following alternatives will be considered by the case manager before suspending a member of staff:

- redeployment within the school or college so that the individual does not have direct contact with the child or children concerned;
- providing an assistant to be present when the individual has contact with children;
- redeploying to alternative work in the school or college so the individual does not have unsupervised access to children;
- moving the child or children to classes where they will not come into contact with the member of staff, making it clear that this is not a punishment and parents have been consulted; or
- temporarily redeploying the member of staff to another role in a different location, for example to an alternative school or college or work for the local authority or academy trust.

These alternatives allow time for an informed decision regarding the suspension and possibly reduce the initial impact of the allegation. This will, however, depend upon the nature of the allegation. The case manager will consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unsubstantiated or maliciously intended. If immediate suspension is considered necessary, the rationale and justification for such a course of action will be agreed and recorded by

both the case manager and the designated officer. This will also include what alternatives to suspension have been considered and why they were rejected. Where it has been deemed appropriate to suspend the person, written confirmation will be dispatched within one working day, giving as much detail as appropriate for the reasons for the suspension.

It is not acceptable for an employer to leave a person who has been suspended without any support. The person will be informed at the point of their suspension who their named contact is within the organisation and provided with their contact details. Children's social care services or the police cannot require the case manager to suspend a member of staff or a volunteer, although they will give appropriate weight to their advice. The power to suspend is vested in the proprietor of the school, or governing bodies of the college who are the employers of staff at the school or college. However, where a strategy discussion or initial evaluation concludes that there will be enquiries by the children's social care services and/or an investigation by the police, the designated officer(s) will canvass police and children's social care services for views about whether the accused member of staff needs to be suspended from contact with children in order to inform the school or college consideration of suspension. Police involvement does not make it mandatory to suspend a member of staff; this decision will be taken on a case-by-case basis having undertaken a risk assessment.

### **Supply staff**

Supply teachers are explicitly included in this Policy as members of staff who may pose a risk of harm to children, even though they are not directly employed by the school and the disciplinary procedures do not fully apply to them (para 56 KCSIE).

We will deal with allegations against supply teachers properly and never decide to cease using a supply teacher due to safeguarding concerns without finding out the facts and liaising with the LADO to determine a suitable outcome. We will discuss with the agency whether it is appropriate to suspend or redeploy the supply teacher to another part of the school whilst investigating the allegation.

We will inform the supply agency of our process for managing allegations, and agencies should be fully involved and co-operate with the LADO's enquiries.

Schools will handle the allegation as we are best placed to collect facts and information required for the referral process (paras 214 to 217 KCSIE).

In false /malicious or unsubstantiated cases we will share information with the agencies to support them with any training needs for their staff.

### **Supporting those involved**

Employers have a duty of care to their employees. They will act to manage and minimise the stress inherent in the allegations process. Support for the individual is vital to fulfilling this duty. Individuals will be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by the children's social care services or the police. The individual will be advised to contact their trade union representative, if they have one, or a colleague for support. They will also be given access to welfare counselling or medical advice where this is provided by the employer.

The case manager will appoint a named representative to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual. For staff in maintained schools and colleges, that may include support via the local authority occupational health or employee welfare arrangements. Particular care needs to be taken when employees are suspended to ensure that they are kept informed of both the progress of their case and current work-related issues. Social contact with colleagues and friends will not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

Parents or carers of a child or children involved will be told about the allegation as soon as possible if they do not already know of it. However, where a strategy discussion is required, or police or children's social care services need to be involved, the case manager will not do so until those agencies have been consulted and have agreed

what information can be disclosed to the parents or carers. Parents or carers will also be kept informed about the progress of the case and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process.

The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but the parents or carers of the child will be told the outcome in confidence. Parents and carers will also be made aware of the requirement to maintain confidentiality about any allegations made against teachers whilst investigations are ongoing as set out in section 141F of the Education Act 2002 (see paragraph 163).

If parents or carers wish to apply to the court to have reporting restrictions removed, they will be told to seek legal advice. In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's social care services, or the police as appropriate, will consider what support the child or children involved may need.

## **Confidentiality**

When an allegation is made, the school or college will make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2002 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 or the General Teaching Council for Wales publishes information about an investigation or decision in a disciplinary case.

In deciding what information to disclose, careful consideration will be given to the provisions of the Data Protection Act 1998, the law of confidence and, where relevant, the Human Rights Act 1998. 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. The provisions commenced on 1 October 2012. 164.

The legislation imposing restrictions makes clear that "publication" of material that may lead to the identification of the teacher who is the subject of the allegation is prohibited. "Publication" includes "any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public". This means that a parent who, for example, published details of the allegation on a social networking site would be in breach of the reporting restrictions (if what was published could lead to the identification of the teacher by members of the public).

In accordance with the Association of Chief Police Officers' (ACPO) guidance 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. (In exceptional cases where the police would like to depart from that rule, for example an appeal to trace a suspect, they must apply to a magistrates' court to request that reporting restrictions be lifted.) The case manager will take advice from the designated officer, 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.

## **Managing the situation and exit arrangements**

If the accused person resigns, or ceases to provide their services, this will not prevent an allegation being followed up in accordance with this guidance. A referral to the DBS must be made, if the criteria are met. If the accused person resigns or their services cease to be used and the criteria are met, it will not be appropriate to reach a settlement/compromise agreement.

A settlement/compromise agreement which prevents the school or college from making a DBS referral when the criteria are met would likely result in a criminal offence being committed as the school or college would not be complying with its legal duty to make the referral. 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. Wherever possible, the accused will be given a full opportunity to answer the allegation and make representations about it.

The process of recording the allegation and any supporting evidence and reaching a judgement about whether it can be substantiated on the basis of all the information available, will continue even if that cannot be done or the accused does not cooperate. It may be difficult to reach a conclusion in those circumstances, and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

## **Settlement/ Compromise agreements**

When a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, will not be used in cases of refusal to cooperate or resignation before the person's notice period expires. Such an agreement will not prevent a thorough police investigation where that is appropriate.

## **Record keeping**

Details of allegations that are found to have been malicious will be removed from personnel records. However, for all other allegations, it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken, and decisions reached, is kept on the confidential personnel file of the accused, and a copy provided to the person concerned.

The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record will be retained at least until the accused has reached normal pension age or for a period of 10 years from the date of the allegation if that is longer.

## **References**

Cases in which an allegation was proven to be false, unsubstantiated or malicious will not be included in employer references. A history of repeated concerns or allegations which have all been found to be false, unsubstantiated or malicious will not be included in any reference.

## **Timescales**

It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations will be investigated as a priority to avoid any delay. Target timescales are shown below: the time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation, but these targets should be achieved in all but truly exceptional cases.

It is expected that:

- 80 per cent of cases should be resolved within one month,
- 90 per cent within three months
- most exceptional cases should be completed within 12 months.
- For those cases where it is clear immediately that the allegation is unsubstantiated or malicious, they should be resolved within one week.

Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the employer to deal with it, although if there are concerns about child protection, the employer will discuss them with the designated officer. In such cases, if the nature of the allegation does not require formal disciplinary action, the employer will institute appropriate action within three working days. If a disciplinary hearing is required and can be held without further investigation, the hearing will be held within 15 working days.

### **Oversight and monitoring**

The designated officer has overall responsibility for oversight of the procedures for dealing with allegations, for resolving any inter-agency issues, and for liaison with the Local Safeguarding Children Board (LSCB) on the subject. The designated officer will provide advice and guidance to the case manager, in addition to liaising with the police and other agencies and monitoring the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process.

Reviews will be conducted at fortnightly or monthly intervals, depending on the complexity of the case. Police forces should also identify officers who will be responsible for:

- liaising with the designated officer(s);
- taking part in the strategy discussion or initial evaluation;
- subsequently reviewing the progress of those cases in which there is a police investigation; and
- sharing information on completion of the investigation or any prosecution.

If the strategy discussion or initial assessment decides that a police investigation is required, the police should also set a target date for reviewing the progress of the investigation and consulting the Crown Prosecution Service (CPS) about whether to: charge the individual; continue to investigate; or close the investigation. Wherever possible, that review should take place no later than four weeks after the initial evaluation. Dates for subsequent reviews, ideally at fortnightly intervals, should be set at the meeting if the investigation continues.

### **Information sharing**

In a strategy discussion or the initial evaluation of the case, the agencies involved should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.

Where the police are involved, wherever possible the employer should ask the police to obtain consent from the individuals involved to share their statements and evidence for use in the employer disciplinary process. This should be done as their investigation proceeds and will enable the police to share relevant information without delay at the conclusion of their investigation or any court case. Children's social care services should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are in need of protection or services, so that any information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to the employer without delay.

## **Specific actions**

Following a criminal investigation or a prosecution. The police should inform the employer and designated officer immediately when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to continue to prosecute the case after person has been charged. In those circumstances, the designated officer will discuss with the case manager whether any further action, including disciplinary action, is appropriate and, if so, how to proceed. The information provided by the police and/or children's social care services will inform that decision. The options will depend on the circumstances of the case and the consideration will need to take into account the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

## **Conclusion of a case**

If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the designated officer will discuss with the case manager and their personnel adviser whether the college will decide to make a referral to the DBS for consideration of whether inclusion on the barred lists is required; and, in the case of a member of teaching staff, whether to refer the matter to the NCTL to consider prohibiting the individual from teaching.

There is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child. Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the case manager will consider how best to facilitate

Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The case manager will also consider how the person's contact with the child or children who made the allegation can best be managed if they are still a pupil at the school or college.

In respect of malicious or unsubstantiated allegations. If an allegation is determined to be unsubstantiated or malicious, the designated officers will refer the matter to the children's social care services to determine whether the child concerned is in need of services or may have been abused by someone else. If an allegation is shown to be deliberately invented or malicious, the headteacher, principal or proprietor will consider whether any disciplinary action is appropriate against the pupil who made it; or whether the police should be asked to consider if action might be appropriate against the person responsible, even if he or she was not a pupil.

## **Learning lessons**

At the conclusion of a case in which an allegation is substantiated, the designated officer will review the circumstances of the case with the case manager to determine whether there are any improvements to be made to the college's procedures or practice to help prevent similar events in the future. This will include issues arising from the decision to suspend the member of staff, the duration of the suspension and whether or not suspension was justified.

Lessons will also be learnt from the use of suspension when the individual is subsequently reinstated. The designated officers and case manager will consider how future investigations of a similar nature could be carried out without suspending the individual.

**Appendix 1**

**Investigation report** [This is a template investigation report that an investigator may adapt to suit the particular circumstances of their investigation]

<b>Introduction</b>	<b>Investigation authorised by:</b> [Name and role]
	<b>Investigator:</b> [Name and role]
	<b>Date investigation began:</b>
	<b>Terms of reference:</b> [include if they were amended and how]
	<b>Background to the investigation:</b> [Brief overview of the matter]

<b>Process of investigation</b>	<b>The investigation process:</b> [Explain how the investigation was authorised]
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	<b>Evidence collected:</b> [List all evidence collected]
	<b>Evidence not collected:</b> [List all evidence that could not be collected and why]
	<b>Persons interviewed:</b> [List all people interviewed]
	<b>Persons not interviewed:</b> [List any witnesses that could not be interviewed and why]
	<b>Anonymised statements:</b> [If any, explain why and provide details of any enquiries into witness]

<b>The investigation findings</b>	<b>Summary of written and physical evidence:</b> [name and summarise each document contained, set out how the evidence supported or did not support your findings and why]
	<b>Summary of witness evidence:</b> [name and summarise each witness statement, quote from statement where relevant, set out how the witness statement supported or did not support your findings and why]

	<b>Facts established:</b> [detail what the investigation has established]
	<b>Facts that could not be established:</b> [detail any part of the investigation that was inconclusive]
	<b>Mitigating factors:</b> [detail if there were any mitigating factors uncovered that are relevant to the investigation]
	<b>Other relevant information:</b> [detail any other information that is relevant to the matter]

<b>Conclusion</b> [if required]	<b>Recommendation:</b>
	<b>Formal action/Informal action/No action required</b>
	<b>Further details on recommendation:</b> [such as the type of action suggested for example, formal disciplinary meeting, and if there are any other recommendations related to the matter. In disciplinary matters, the investigator should not recommend a possible sanction. This should only be considered at a disciplinary hearing]
	<b>Investigator's signature:</b>
	<b>Date:</b>

<b>Supporting documents</b>	[List all documents collected as part of investigation and included in report]
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