

MANAGING ALLEGATIONS AGAINST STAFF AND VOLUNTEERS

2018-2019



1 INTRODUCTION

All children and adults have a fundamental right to be protected from harm.

The Governors of **Shiphay Learning Academy** have a duty to safeguard and promote the welfare of children to create and maintain a safe learning environment (section 175 of the Education Act 2002). We should identify where there are child welfare concerns and take action to address them, in partnership with other organisations where appropriate, and in accordance with the South West Child Protection Procedures (www.swcpp.org.uk)

Academy staff, including volunteers who work on a regular basis with children, have a positive role to play in child protection, as their position often allows them to be able to observe outward signs of abuse and changes of behaviour in children.

Because of their role however, they are also open to accusations of abuse. Such allegations may be true, but they may also be false, misplaced or malicious.

To fulfil its commitment to the welfare of children, **Shiphay Learning Academy** has a procedure for dealing with allegations of abuse against members of staff and volunteers.

The procedure aims to ensure that all allegations are dealt with fairly, consistently and quickly and in a way that provides protection for the child, whilst supporting the person who is the subject of the allegation.

In the event that a member of staff does not wish to report an allegation directly, or they have a general concern about malpractice within the **Academy**, reference can also be made to the Whistle Blowing Policy.

The procedure complies with the framework for managing cases of allegations of abuse against people who work with children, as set out in government guidance document – ‘*Safeguarding Children and Safer Recruitment in Education*’ (Chapter 5) supplemented by the Department for Education guidance – ‘*Dealing with Allegations of Abuse against Teachers and other Staff*’ issued in July 2011, and in the South West Child Protection Procedures (www.swcpp.org.uk).

The procedure has been agreed following consultation with the recognised trade unions.

The policy should be read in conjunction with the Academy's Child Protection and Whistleblowing Policies, and its Code of Conduct.

A summary of the procedure can be found at Appendix A to this document.

SCOPE

The procedure applies to all people employed by the Academy or all people volunteering in the Academy.

GENERAL PRINCIPLES

The following procedure should be used in respect of all cases in which it is alleged that a member of staff or a volunteer in the Academy has:

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

In addition, the procedure also applies if a concern arises about a member of staff in his/her personal life which indicates that they may be unsuitable to work with children.

It is imperative that everyone who deals with allegations of abuse maintains an open and enquiring mind. Even allegations that appear less serious must be followed up and taken seriously and should be reported to the LADO as soon as possible. The procedure aims to provide effective protection for the child and support for the person who is the subject of the allegation.

TIMESCALES

It is in everyone's interests to resolve cases as quickly as possible, consistent with a fair and thorough investigation and avoid unnecessary delay. Indicative timescales for each stage of the process are set out in section 4. However, it is recognised that the time taken to investigate and resolve individual cases may depend on a variety of factors, including the nature, seriousness and complexity of the case.

CONFIDENTIALITY

Whilst an allegation is being investigated, every effort should be made to maintain confidentiality. It might be necessary however, for staff to be informed so far as the necessary, particularly in the case of allegations involving Headteachers.

Consideration will also need to be given as to whether to make a brief statement to parents of children in the Academy to provide an element of reassurance and to continue to provide information throughout the investigation.

The police will not normally provide any information to the press or media that might identify an individual, unless or until the person is charged with a criminal offence.

INFORMATION SHARING

During an initial evaluation of the case, or a child protection strategy discussion (see section 4.3.4), the agencies concerned should share all the relevant information that they have about a person who is subject of the allegation and about the alleged victim.

Parent(s) or carer(s) of a child or children involved should be told about the allegation as soon as possible if they do not already know of it. They should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution.

In those cases where there is a need to pursue the Academy's disciplinary process the parent(s) or carer(s) should be told of the outcome of any disciplinary process.

NB The detailed content of the disciplinary hearing, including information taken into account in reaching a decision, will normally not be shared ONLY the outcome.

The Academy will make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Academy will take advice from the LADO, police and Children's 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 media enquiries should they arise.

DECISION-MAKING

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.

This should include those cases in which the individual concerned refuses to co-operate with the process, tenders his or her resignation, ceases to provide their services.

Wherever possible, the individual should be given a full opportunity to answer the allegation and make representations. In the event of the individual having resigned or cease to provide their service they can be invited to still attend any meetings including a disciplinary hearing.

Alternatively, they may wish to send a representative or provide information in writing.

In all cases the process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be regarded as substantiated on the basis of all information available, should continue, even if the individual does not co-operate.

Compromise agreements must **NOT** be used in any allegation cases.

OVERSIGHT AND MONITORING

The LADO has overall responsibility for the oversight of the procedure dealing with allegations, and will provide advice and guidance to Academics, as appropriate.

All allegations, even those that appear less serious will be treated as important by the Academy and reported to the LADO so that the issue is examined objectively and independently.

The LADO will also monitor the progress of cases and liaise with the police and other agencies to ensure that cases are dealt with as quickly as possible, consistent with a fair and thorough process.

The contact details for the designated LADO are set out at Appendix B of this document.

The relevant Human Resources provider to the Academy will work with the LADO to ensure the appropriate application of this procedure and will provide specific advice in cases of formal disciplinary action.

PROCEDURE

STEP 1: REPORTING OF ALLEGATIONS

All allegations should be reported to the Headteacher immediately, the allegation is about the Headteacher in which case it should be reported to the Chair of Governors or the Vice Chair in the Chair of Governors absence.

A written, dated record must be made by the Headteacher or Chair of Governors of the allegations as soon as practicable, but within 24 hours.

The LADO should be informed of all the allegations that come to the Academy's attention so that they can consult the police and Children Services Social Care colleagues as appropriate. If the allegation falls under remit of 3.1 above, the case should be reported to the LADO on **the same day**, where practicable.

The LADO should also be informed of any allegations that are made directly to the police or Children Services Social Care.

The Headteacher or Chair of Governors should not investigate the allegation at this stage. However, serious consideration will need to be given as to whether it is appropriate to suspend the individual concerned.

STEP 2: INFORMING RELEVANT PARTIES

The Headteacher or Chair of Governors should inform the accused person about the allegation as soon as possible **AFTER** consulting the LADO and subject to paragraph 4.2.3 below. If the person is a member of a union or professional association, they should be advised to contact that organisation for support.

If the parent(s) or carer(s) of the child concerned are not already aware of the allegation, the LADO should also discuss with the Headteacher or Chair of Governors how and by whom they should be informed.

However, where a child protection strategy discussion is needed, or the police or Children's Services Social Care need to be involved, the Headteacher should not inform the relevant parties until those agencies have been consulted and agreed what information can be disclosed.

STEP 3: INITIAL EVALUATION

The Academy will treat all allegations received seriously and seek to resolve the matter as quickly as possible. Not all allegations will meet the criteria for triggering these particular procedures. In which case it may be appropriate to initiate other more relevant and appropriate procedures such as the Academy's complaints, capability or disciplinary procedures.

The accused person should be told of the allegation by the Headteacher or Chair of Governors as soon as possible after consulting with the LADO unless a child protection strategy meeting is needed or the police and/or Children's Services need to be involved.

Some rare allegations will be so serious as to require immediate referral by the Academy in order for there to be urgent intervention by Children's Services and/or the police. The LADO should be informed of all allegations that come to the Academy's attention and appear to meet the criterion so that the LADO can consult the police and Children's Services as appropriate.

There may be up to 3 strands in the consideration of an allegation:

- a police investigation of a possible criminal offence;
- enquiries and assessment by Children's Services Social Care about whether a child is in need of protection or in need of services;
- consideration by the Academy of disciplinary/capability action in respect of the individual.

The LADO should discuss the matter with the Headteacher or Chair of Governors, establish that the allegation is within the scope of these procedures and where necessary, obtain further details of the allegation and the circumstances in which it was made.

Consideration should also be given as to whether any other children may be likely to be at risk, in the light of the allegation and whether it might be necessary to review any previous allegations made.

If there is cause to suspect that a child is suffering or is likely to suffer significant harm, the LADO will contact Children Services Social Care and ask for a child protection strategy discussion to be convened straight away. The focus of this discussion will be on the needs of the child or children who may be at risk.

The strategy discussion should include the LADO, a representative from the Child Abuse Investigation Unit (CAIU) where there is a potential criminal issue, a representative from Human Resources and the Headteacher or Chair of Governors and take account of information that the Academy can provide about the circumstances or context of the allegation and the pupil and member of staff concerned.

If the 'threshold of significant harm' has not been reached, but a police investigation might be needed, the LADO should conduct a similar discussion with the police, Academy and other agencies to evaluate the allegation and decide how best to deal with it.

If the allegation is about physical contact, the child protection strategy discussion or initial evaluation should take into account of the fact that members of staff or volunteers are entitled to use reasonable force to control or restrain pupils in certain circumstances (see also Guidance for Staff on Contact with Pupils).

However, the police must always be consulted about any case in which a criminal offence may have been committed.

STEP 4: ACTION FOLLOWING INITIAL EVALUATION

If the child or children appear to be at risk of significant harm and in need of protection, there should be an urgent referral to local child protection agencies i.e. Children's Services or the police, in accordance with the South West Child Protection Procedures.

If as a result of the child protection strategy discussion, there is reasonable belief to suggest that a criminal offence has been committed, the police will carry out a full investigation.

Where the initial consideration decides that the allegation does not involve a possible criminal offence or that there is no significant risk to the child, the LADO should discuss the next steps with the Headteacher or Chair of Governors and institute action as appropriate within 3 working days.

The options open to the Academy depend on the nature and circumstances of the allegation and the evidence and information available and will range from taking no further action to summary dismissal.

Aside from informing the member of staff or volunteer of the allegation the Academy will ensure other support is considered and implemented in order to manage and

minimise the stress. This will include a named representative being made available to keep the individual informed of progress.

In all instances that an allegation is made the member of staff will be advised to contact their trade union/professional association representative, and provided with the opportunity to access welfare counselling and medical advice.

Social contact with colleagues and friends must not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

The LADO should continue to liaise with the Academy to monitor the progress of any case and provide advice and support as necessary. Reviews should be conducted at fortnightly or monthly intervals depending on the complexity of the case.

UNFOUNDED AND MALICIOUS ALLEGATIONS (refer to Appendix B for definitions) should be concluded within one week.

If the allegation is considered to be false, the LADO should refer the matter to Children Services Social Care to determine whether the child concerned is in need of services, or may have been abused by someone else.

In respect of malicious allegations, consideration should also be given to whether disciplinary action against the pupil who made the allegation is appropriate.

The member of staff should be informed of the allegation verbally and in writing, if this has not already been done. The suspension should be lifted immediately, if applicable. They should be told of the fact that no further action will be taken in accordance with disciplinary or child protection procedures and relevant support considered in respect of their return to work as well as other factors as appropriate on a case by case basis.

The Headteacher or Chair of Governors should also inform the parents of the child or the children of the outcome and consider what counselling and support would be appropriate. Advice and support should be sought from the Local Authority as appropriate.

When a decision is made to take no further action, a written record should be made, including the reason of the decision. A copy of this should be provided to the employee.

POLICE INVESTIGATION

If a criminal investigation is required, the police will 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.

A target date should be set for reviewing the progress of the investigation and this should take place no later than 4 weeks after the initial evaluation.

When a decision has been made not to charge the individual with an offence or administer a caution, the police should, wherever possible, aim to pass all the

information they have to the Academy within 3 working days, as this may be relevant to a disciplinary case.

If the person is convicted of an offence the police should inform the LADO and the Academy straight away. The action the Academy might need take will depend on the circumstances of the case and consideration will need to be given to the different standard of proof required in disciplinary and criminal proceedings. For example, it may be the case that whilst there is no criminal prosecution that the standard of proof required for employment law purposes deems that a decision by the Academy to dismiss the employee is appropriate.

RECORD KEEPING

In those cases where an allegation is found to be malicious all details will be removed from the member of staff's personal file.

In all other cases there will be a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any actions taken or decisions reached which will be kept on the member of staff's personnel file. This will be held confidentially, and a copy of these details provided to the individual. The retention of this record will be until the retirement of the member of staff for a period of 10 years from the date of allegation if that is longer.

SUSPENSION

The decision to suspend a member of staff will be a last resort.

Alternatives to suspension will include redeployment or arranging supervised contact with pupils.

The Academy will assess any perceived risk and from the information available only make a decision to suspend a member of staff in the following circumstances:

- Where a child is at risk of suffering, or likely to suffer significant harm,
- The allegation requires a criminal investigation, or
- The allegation is so serious that there may be grounds to consider dismissal.

Following a period of suspension the Academy will consider carefully the support the member of staff requires to return to work including a phased return to work and/or the provision of a mentor to provide assistance and support in the short term. In addition the Academy should also consider how the person's contact with the child or children who made the allegation can be best managed.

DISCIPLINARY ACTION

If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days in accordance with the Academy's Disciplinary Policy.

If a police investigation is being undertaken, will need to be given as to whether disciplinary action can be taken in parallel with the criminal process, or whether the disciplinary process will need to await completion of the police enquiries and/or prosecution. In cases where a disciplinary investigation/action is undertaken in parallel with the criminal process it will have been agreed with the police that there is no requirement to await the completion of enquiries and/or prosecution.

Where further investigation is required to inform consideration of disciplinary action, the Headteacher or Chair of Governors should appoint an appropriate level Investigating Officer, in consultation with Human Resources and the LADO.

If further evidence comes to light during the course of the investigation, referral to child protection agencies may need to be considered.

The Investigating Officer should aim to provide a report to the Headteacher or Chair of Governors within **10 working days**.

In any case in which Children's Services Social Care has undertaken enquiries to determine whether the child or children are in need of protection, the Academy should take account of any relevant information obtained in the course of those enquiries when considering disciplinary action.

Within **2 working days** of receipt of the report, the Headteacher or Chair of Governors should consult with Human Resources and decide whether a disciplinary hearing is needed. If this is the case, the hearing should be held within **15 working days**.

STEP 5: REFERRAL TO THE DEPARTMENT FOR EDUCATION

On conclusion of the case, where an allegation has been substantiated, the Academy should consult the LADO who will also liaise with Human Resources about whether a referral to the DfE for consideration of List 99 action or, in the case of teachers, by the GTC is required, or advisable. If a referral is appropriate the report should be made within **one month**.

STEP 6: REFERRAL TO THE INDEPENDENT SAFEGUARDING AUTHORITY

If the allegation is substantiated and the individual is dismissed or the Academy ceases to use the individual's services, or the individual resigns, the LADO should discuss with the Academy and Human Resources whether or not a referral to the ISA is required.

There is a legal duty to make a referral where the Academy thinks 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.

This duty arises where the Academy has removed the individual from relevant work or they have ceased to continue working in circumstances where they would have been removed had they not done so.

Referrals should be made asap after the resignation or removal of the member of staff involved and within one month of ceasing to use the person's services.

STEP 7: REFERENCES

Cases in which an allegation was proven to be unsubstantiated, unfounded or malicious should not be included in employer references.

A history of repeated concerns or allegations which have all been found to be unsubstantiated, malicious, etc. should also not be included in any reference.

STEP 8: FORMAL REVIEW

In cases where an allegation has been substantiated, the LADO should review the circumstances of the case with the Headteacher or Chair of Governors and determine whether there are any improvements that could be made to the Academy's procedures or practice, including the issue and manner of suspension if this has occurred, to help prevent similar events occurring in the future.

Appendix A

LOCAL AUTHORITY DESIGNATED OFFICER (LADO)

John Edwards

Telephone: (01803) 208653

Email address:

john.edwards@torbay.gov.uk

OR

cpunit@torbay.gov.uk

cpunit@torbay.gcsx.gov.uk (secure)

Appendix B

Definitions

1.1 Outcomes

(i) No further action after initial consideration

Initial consideration means the discussion about whether the alleged incident constitutes an allegation within the scope of the Local Safeguarding Children Board (LSCB) procedures, i.e. the initial discussion with the LADO, Children Services Social Care or the police following which there may be no need for further action under the procedures. It does not mean following an initial assessment undertaken in accordance with the Framework for the Assessment of Children in Need and their families.

(ii) Being unfounded

This indicates that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances. For an allegation to be classified as unfounded, it will be necessary to have evidence to disprove the allegation.

(iii) Being unsubstantiated

This is not the same as a false (malicious) allegation. It simply means that there is insufficient identifiable evidence to prove or disprove the allegation.

(iv) Being malicious

This means there is a clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false.

1.2 Chair of Governors

Responsible for liaising with the Headteacher Designated Safeguarding Lead (DSL) at the Academy over matters regarding child protection issues, or in the case of allegations against the Headteacher, liaising with the LADO over appropriate action to take.

1.3 Local Authority Designated Officer (LADO)

Has overall responsibility for providing advice and liaison with the main agencies involved, and monitoring the progress of cases, to ensure that case are dealt with as quickly as possible, consistent with a fair and thorough process.

The LADO role for Academies in Torbay is fulfilled by the Safeguarding Officer (Education).

Telephone: 01803 208563

Email: john.edwards@torbay.gov.uk

1.4 Torbay Safeguarding Children Board

Key statutory mechanism for agreeing how the relevant organisations in each local area will co-operate to safeguard and promote the welfare of children.

Further Reference Documents

'Safeguarding Children and Safer Recruitment in Education', Department for Education and Skills, January 2007.

- Chapter 5 deals with allegations of abuse against teachers and other Academy staff.

'Allegations of Abuse against Teachers and other Staff', Department for Education, July 2011.

'Working Together to Safeguard Children – a guide to inter-agency working to safeguard and promote the welfare of children', HM Government 2010.

- Updated document that sets out how individuals and organisations should work together to safeguard the welfare of children.

Section 93 of the Education and Inspections Act 2006

- this enables Academy staff to use reasonable force to prevent a pupil from committing a criminal offence, injuring themselves or others, damaging property, acting in a way that is counter to maintaining good order and discipline at the Academy.

'The Use of Force to Control or Restrain Pupils – guidance for Academies in England' (2010).

Joint NEOST/Teacher Unions Guidance on Education staff and child protection: Staff facing an allegation of abuse, September 2002.

- Guidelines on Practice and Procedure.

Allegations against Education Staff – thresholds for and alternatives to suspension, National framework by which staff can voice their concerns in good faith about practice within the Academy without fear of repercussion and in accordance with the Public Interest Disclosure Act 1998.

Academy Code of Conduct – Guidelines for Safe Working Practice for the Protection of Children and Staff.

'What to Do if you are Worried that a child is Being Abused', HM Government, 2006.