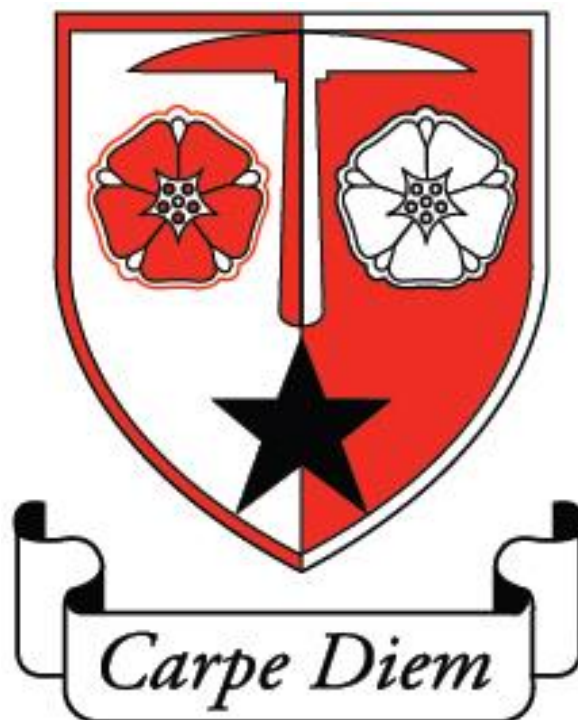


# Audenshaw School



## PROCEDURE FOR DEALING WITH ALLEGATIONS OF ABUSE AGAINST STAFF

This policy is reviewed every two years by the Personnel Committee.

### History of Document

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## CONTENTS

		<b>PAGE</b>
1.	Policy statement	3
2.	Key points	3
3.	Duties as an employer and employee	3
4.	Initial considerations	4
5.	Procedure	4
6.	Supporting those involved	6
7.	Confidentiality	7
8.	Resignations and 'compromise agreements'	8
9.	Record keeping	8
10.	Timescales	8
11.	Oversight and monitoring	9
12.	Suspension	9
13.	Information sharing	11
14.	Action following a criminal investigation or a prosecution	11
15.	Action on conclusion of a case	11
16.	Learning lessons	12
17.	Action in respect of unfounded or malicious allegations	12

## **1. POLICY STATEMENT**

The school follows statutory guidance from the Department for Education relating legislation in force at the time. The procedure should be read in conjunction with the school's Safeguarding Policy and Child Protection Policy.

The procedure relates to all adults working with children and young people at Audenshaw School, whether in a paid or voluntary position including those on a temporary or supply basis.

## **2. KEY POINTS**

- 2.1 If an allegation is made, the quick resolution of that allegation should be a clear priority for the benefit of all concerned. Any unnecessary delays should be eradicated.
- 2.2 In response to an allegation, all other options will be considered before suspending a member of staff: suspension should not be the default option. An individual will be suspended only if there is no reasonable alternative. If suspension is deemed appropriate, the reasons and justification will be recorded and the individual notified of the reasons.
- 2.3 Allegations that are found to be malicious will be removed from personnel records; and any that are unsubstantiated, are unfounded or malicious will not be referred to in employer references.
- 2.4 Students that are found to have made malicious allegations are likely to have breached school behaviour policies. The school will therefore consider whether to apply an appropriate sanction, which could include temporary or permanent exclusion (as well as referral to the police if there are grounds for believing a criminal offence may have been committed).
- 2.5 The school will follow the procedure detailed below for dealing with allegations.

## **3. DUTIES AS AN EMPLOYER AND EMPLOYEE**

- 3.1 The school has a duty of care to their employees. Support will be provided for anyone facing an allegation and the employee will be given a named contact if they are suspended.
- 3.2 This procedure 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 will be used in respect of all cases in which it is alleged that a teacher or member of staff (including volunteers) in a school has:
  - a. behaved in a way that has harmed a child, or may have harmed a child;
  - b. possibly committed a criminal offence against or related to a child; or
  - c. behaved towards a child or children in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children.

- 3.3 The school will ensure that any allegation of abuse made against a teacher or other member of staff or volunteer is dealt with very quickly, in a fair and consistent way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation.

#### 4. INITIAL CONSIDERATIONS

- 4.1 The Local Area Designated Officer (LADO) will be informed of all allegations that come to the school's attention so they can consult police and children's social care services as appropriate.
- 4.2 Some rare allegations will be so serious they require immediate intervention by children's social care services and/or police.
- 4.3 The following definitions will be used when determining the outcome of allegation investigations:
- **Substantiated:** there is sufficient identifiable evidence to prove the allegation;
  - **False:** there is sufficient evidence to disprove the allegation;
  - **Malicious:** there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false;
  - **Unfounded:** there is no evidence or proper basis which supports the allegation being made. It might also indicate 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;
  - **Unsubstantiated:** this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

#### 5. PROCEDURE

- 5.1 If an allegation is made, the member of staff receiving the allegation will immediately inform the Headteacher.
- 5.2 The Headteacher will discuss the content of the allegation with the LADO (Local Authority Designated Officer for Managing Allegations Against Adults Working with Children).
- 5.3 The purpose of the initial discussion is for the LADO and the Headteacher to consider the nature, content and context of the allegation and agree a course of action. The LADO may ask the Headteacher to provide or obtain relevant additional information, such as previous history, whether the child or their family have made similar allegations and the individual's current contact with children.

- 5.4 There may be situations when the Headteacher 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 criminal offence. Where there is no such evidence, the Headteacher will discuss the allegations with the LADO in order to help determine whether police involvement is necessary.
- 5.5 If the allegation made to a member of staff concerns the Headteacher, the member of staff receiving the allegation will immediately inform the Chair of Governors who will consult with the LADO. Should this be the case, the Chair of Governors will follow all the steps for the Headteacher set out below.
- 5.6 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 will be recorded by both the Headteacher and the LADO, and agreement reached on what information should be put in writing to the individual concerned and by whom. The Headteacher will then consider with the LADO what action should follow both in respect of the individual and those who made the initial allegation.
- 5.7 The Headteacher should inform the accused person about the allegation as soon as possible after consulting the LADO. The Headteacher will provide 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 Headteacher will not do that until those agencies have been consulted, and have agreed what information can be disclosed to the accused.
- 5.8 The Headteacher will consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the school or whether alternative arrangements can be put in place until the allegation or concern is resolved. All options to avoid suspension should be considered prior to taking that step. (Please see further information on suspension below).
- 5.9 If the allegation is not demonstrably false or unfounded, and there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion should be convened. If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take into account that teachers and other school staff are entitled to use reasonable force to control or restrain students in certain circumstances, including dealing with disruptive behaviour.
- 5.10 Where it is clear that an investigation by the police or children's social care services is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the LADO will discuss the next steps with the Headteacher. In those circumstances, the options open to the Headteacher depend on the nature and circumstances of the allegation and the evidence and information available. This will range from taking no further action to dismissal or a decision not to use the person's services in future. Suspension will not be the default position: an individual would be suspended only if there is no reasonable alternative.

- 5.11 In some cases, further enquiries will be needed to enable a decision about how to proceed. If so, the LADO will discuss with the Headteacher how and by whom the investigation will be undertaken. In straightforward cases, the investigation would normally be undertaken by a member of the Senior Leadership Team. However, in other circumstances such as the nature or complexity of the allegation, the Headteacher may ask an independent investigator to undertake the investigation.

## **6. SUPPORTING THOSE INVOLVED**

### **6.1 Members of staff / volunteers**

- 6.1.1 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.
- 6.1.2 Staff are advised to contact their trade union representative, if they have one, or a work colleague for support. They are also able to access the school's counselling service, Relate.
- 6.1.3 The Headteacher 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. Particular care will 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.
- 6.1.4 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.

### **6.2 Parents / Carers and children involved**

- 6.2.1 Parents or carers of a child or children involved will be told about the allegation as soon as possible by the Headteacher. However, where a strategy discussion is required, or police or children's social care services need to be involved, the Headteacher should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers.
- 6.2.2 Parent or carers will 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 should be told the outcome in confidence.
- 6.2.3 The Headteacher will make parents or carers aware of the prohibition on reporting or publishing allegations about teachers in Section 141F of the Education Act 2002. If parents or carers wish to apply to the court to have reporting restrictions removed, they

will be told to seek legal advice.

- 6.2.4 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, should consider what support the child or children involved may need.

## **7. CONFIDENTIALITY**

- 7.1 When an allegation is made, the school will make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.
- 7.2 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 student 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.
- 7.3 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).
- 7.4 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, e.g. an appeal to trace a suspect, they must apply to a magistrates' court to request that reporting restrictions be lifted).
- 7.5 The Headteacher will 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.

## **8. RESIGNATIONS AND ‘COMPROMISE AGREEMENTS’**

- 8.1 If the accused person resigns, or ceases to provide their services, this will not prevent an allegation being followed up in accordance with this procedure.
- 8.2 Wherever possible the accused person will be given a full opportunity to answer the allegation and make representations about it. But 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, should 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.
- 8.3 The school will not use Compromise Agreements in cases of abuse or alleged abuse.

## **9. RECORD KEEPING**

- 9.1 Details of allegations that are found to have been malicious will be removed from personnel records.
- 9.2 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.
- 9.3 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 Disclosures 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.
- 9.4 The record will be retained at least until the accused has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

## **10. TIMESCALES**

- 10.1 It is in everyone’s interest to resolve cases as quickly as possible consistent with a fair and thorough investigation.
- 10.2 All allegations will be investigated as a priority to avoid any delay. It is generally expected that almost all cases would be complete within 1-3 months. All but the most exceptional cases should be completed within 12 months.



- 10.3 For those cases where it is clear immediately that the allegation is unfounded or malicious, they will be resolved within one week.
- 10.4 Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the school to deal with it as misconduct, although if there are concerns about child protection, the Headteacher will discuss this with the LADO.
- 10.5 In such cases the school will follow the timescales and procedures set out in the school's Disciplinary Procedure.

## **11. OVERSIGHT AND MONITORING**

- 11.1 The LADO 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 LADO will provide advice and guidance to the Headteacher, 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.
- 11.2 Police forces will also identify officers who will be responsible for:
- liaising with the LADO;
  - taking part in the strategy discussion or initial evaluation;
  - subsequently reviewing the progress of those cases in which there is a police investigation;
  - sharing information on completion of the investigation or any prosecution.

## **12. SUSPENSION**

- 12.1 The possible risk of harm to children posed by an accused person should be evaluated and managed in respect of the child(ren) involved in the allegations. In some rare cases that will require the Headteacher to consider suspending the accused until the case is resolved. Suspension will not be an automatic response when an allegation is reported. If the Headteacher is concerned about the welfare of other children in the community or the staff member's family, those concerns should be reported to the LADO or police. But suspension is highly unlikely to be justified on the basis of such concerns alone.
- 12.2 Suspension will be considered in a case where there is cause to suspect a child or other children at the school is/are at risk of significant harm or the case is so serious that it might be grounds for dismissal. In such cases, the Headteacher will consider the circumstances of the case and may wish to seek advice from the LADO before suspending the accused.
- 12.3 The Headteacher 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 LADO, police and children's social

care services have no objections to the member of staff continuing to work during the investigation, the Headteacher should be as inventive as possible to avoid suspension. Based on assessment of risk, the following alternatives will be considered by the Headteacher before suspending a member of staff:

- redeployment within the school so that the individual does not have direct contact with the child or children concerned;
- making an arrangement for another adult to be present when the individual has contact with children e.g. a Technician;
- redeploying to alternative work in the school 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/carers have been consulted; or
- temporarily redeploying the member of staff to another role in a different location, for example to an alternative school.

- 12.4 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 Headteacher should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended.
- 12.5 If immediate suspension is considered necessary, the rationale and justification for such a course of action will be agreed and recorded by both the Headteacher and the LADO. This should also include what alternatives to suspension have been considered and why they were rejected.
- 12.6 Where it has been deemed appropriate to suspend the person, written confirmation should be dispatched within one working day, giving as much detail as appropriate for the reasons for the suspension. The person will be informed at the point of their suspension who their named contact is within the school and provided with their contact details.
- 12.7 Children's social care services or the police cannot require the Headteacher to suspend a member of staff or a volunteer, although they should give appropriate weight to their advice. The power to suspend is vested in the Headteacher and/or Board of Governors. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by the children's social care services and/or an investigation by the police, the LADO should 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's consideration of suspension. Police involvement does not make it mandatory to suspend a member of staff; this decision should be taken on a case-by-case basis having undertaken a risk assessment.

### **13. INFORMATION SHARING**

- 13.1 In a strategy discussion or the initial evaluation of the case, the agencies involved will share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.
- 13.2 Where the police are involved, wherever possible the school will ask the police to obtain consent from the individuals involved to share their statements and evidence for use in the disciplinary process. This will 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.
- 13.3 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 school without delay.

### **14. ACTION FOLLOWING A CRIMINAL INVESTIGATION OR A PROSECUTION**

- 14.1 The police or the Crown Prosecution Service (CPS) should inform the school and LADO 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.
- 14.2 In those circumstances the LADO should discuss with the Headteacher 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 should inform that decision.
- 14.3 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.

### **15. ACTION ON CONCLUSION OF A CASE**

- 15.1 If the allegation is substantiated and the person is dismissed or the school ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the LADO should discuss with the Headteacher whether to refer the case to the Disclosure and Barring Service ("DBS") for consideration of inclusion on the barred lists; or to refer to the National College for Teaching and Leadership.
- 15.2 There is a legal requirement for the school to make a referral to the DBS where they think that an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child.

- 15.3 In such circumstances, the duty to refer an individual to the DBS arises where the school has removed the individual from relevant work with children or the person has chosen to cease relevant work in circumstances where they would have been removed had they not done so.
- 15.4 Referrals to the DBS will be made as soon as possible after the resignation or removal of the member of staff involved and within one month of ceasing to use the person's services.
- 15.5 The DBS will consider whether to bar the person from working in regulated activity, which will include most work in schools and other educational establishments.
- 15.6 Professional misconduct cases will be referred to the relevant regulatory body.
- 15.7 Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the Headteacher will consider how best to facilitate that, which, depending on the individual's circumstances, may involve a phased return and/or the provision of a mentor to provide assistance and support in the short term. The Headteacher 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.

## **16. LEARNING LESSONS**

- 16.1 At the conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the Headteacher to determine whether there are any improvements to be made to the school's procedures or practice to help prevent similar events in the future.
- 16.2 This should 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 should also be learnt from the use of suspension when the individual is subsequently reinstated.
- 16.3 The LADO and case manager should consider how future investigations of a similar nature could be carried out without suspending the individual.

## **17. ACTION IN RESPECT OF UNFOUNDED OR MALICIOUS ALLEGATIONS**

- 17.1 If an allegation is determined to be unfounded or malicious, the LADO should 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.
- 17.2 If an allegation is shown to be deliberately invented or malicious, the Headteacher should consider whether any disciplinary action is appropriate against the student 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 student.