

TORRE C OF E ACADEMY



DEALING WITH ALLEGATIONS OF ABUSE AGAINST MEMBERS OF STAFF AND VOLUNTEERS

INTRODUCTION

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

The Governors of **Torre C of E 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). This school will take all reasonable steps to identify where there are child welfare concerns and will take action to address them, in partnership with other organisations where appropriate, and in accordance with the South West Child Protection Procedures (<https://www.proceduresonline.com/swcpp/>)

School 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.

However, because of their role, school staff and volunteers 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, **Torre C of E 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 **Torre C of E Academy**, reference should be made to the **Torre C of E Academy** Whistle blowing policy.

The procedure complies with the framework for managing cases of allegations of abuse against teachers and other staff, as set out in the DfE Statutory Guidance – *'Keeping Children Safe in Education'* (Part 4).

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

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

SCOPE

The procedure applies to all people employed by the school and all people volunteering in the school. It will apply regardless of whether this school is where the alleged abuse took place.

Allegations against a teacher who is no longer teaching will be referred to the police. Historical allegations of abuse will also be referred to the police.

GENERAL PRINCIPLES

The following procedure will be used in respect of all cases in which it is alleged that a member of staff or a volunteer in the school 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 Local Authority Designated Officer (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.

The school is mindful of its duty of care to staff and will ensure that effective support is provided for anyone facing an allegation, including providing the employee with a named contact if they are suspended from work. Any allegation of abuse made against a teacher or other member of staff or volunteer will be dealt with as quickly as possible, 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.

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 the procedure below. 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 will be made to maintain confidentiality. It might be necessary however, for staff to be informed so far as necessary, particularly in the case of allegations involving a Headteacher.

Consideration will also need to be given as to whether to make a brief statement to parents of children in the school 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.

PROCEDURE

1 REPORTING OF ALLEGATIONS

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

A written, dated record must be made by the Headteacher/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 attention as soon as possible so that they can consult the police and Children Services colleagues as appropriate.

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

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

2 INFORMING RELEVANT PARTIES

The Headteacher/Chair of Governors should inform the accused person about the allegation as soon as possible **AFTER** consulting the LADO and subject to the paragraph underlined 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)/carer(s) of the child concerned are not already aware of the allegation, the LADO should also discuss with the Headteacher / 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 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.

3 INITIAL CONSIDERATIONS

The procedures for dealing with allegations need to be applied with common sense and judgement. Many cases may well either not meet the criteria set out above, or may do so without warranting consideration of either a police investigation or enquiries by local authority children's social care services. In these cases, local arrangements should be followed to resolve cases without delay.

Some rare allegations will be so serious they require immediate intervention by children's social care services and/or police. The LADO will be informed of all allegations that come to a school's attention and appear to meet the criteria so they can consult police and children's social care services as appropriate.

The following definitions will be used when determining the outcome of allegation investigations:

- 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 principal, or where the headteacher or principal is the subject of an allegation, the chair of governors, chair of the management committee or proprietor of an independent school (the 'case manager') should immediately discuss the allegation with the LADO. 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. The LADO 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 LADO 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 LADO, 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 LADO 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 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, and have agreed what information can be disclosed to the accused. Employers must 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 (see further information on suspension which follows).

If there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion should be convened in accordance with the statutory guidance Working together to safeguard children. If the allegation is about physical contact, the strategy discussion or initial evaluation with the police will take into account that teachers and other school and college staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour.

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 case manager. In those circumstances, the options open to the school 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 will be suspended only if there is no reasonable alternative.

In some cases, further enquiries will be needed to enable a decision about how to proceed. If so, the LADO will discuss with the case manager how and by whom the investigation will be undertaken. In straightforward cases, the investigation will normally be undertaken by a senior member of the school staff.

However, in other circumstances, such as lack of appropriate resource within the school, or the nature or complexity of the allegation, the allegation may require an independent investigator. The school will liaise with its HR Services provider to identify an appropriate investigator in those circumstances.

4 SUPPORTING THOSE INVOLVED

The School has a duty of care to its employees. It 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 through occupational health services.

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. 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 section 5 below). 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.

5. CONFIDENTIALITY

The school 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 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. The provisions commenced on 1 October 2012.

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 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.

6 MANAGING THE SITUATION AND EXIT ARRANGEMENTS

Resignations and 'settlement agreements'

If the accused person resigns, or ceases to provide their services, this will not prevent an allegation being followed up in accordance with the DfE statutory guidance. A referral to the DBS *must* be made, if the criteria are met – see paragraph 120 KCSIE. 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 from making a DBS referral when the criteria are met would likely result in a criminal offence being committed as the school would not be complying with its legal duty to make the referral.

Every effort will be 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. 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, 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 agreements' (sometimes referred to as compromise agreements), by which 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.

The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on record retention

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 also 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, and all but the 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 will 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 school to deal with it, although if there are concerns about child protection, the school will discuss them with the LADO. In such cases, if the nature of the allegation does not require formal disciplinary action, the school 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 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 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 should 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 LADO;
- 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.

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 LADO or police. But suspension is highly unlikely to be justified on the basis of such concerns alone.

Suspension will be considered only in a case where there is cause to suspect a child or other children at the school 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 until the allegation is resolved, and may wish to seek advice from their HR Service provider and the LADO. In cases where the school is made aware that the Secretary of State has made an interim prohibition order in respect of an individual at the school, 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 LADO, 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 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 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 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 LADO. 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 should give appropriate weight to their advice. The power to suspend is vested in the proprietor of the school, or governing bodies of the school who are the employers of staff at the school. 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 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 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.

Information sharing

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.

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 internal 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 school without delay.

SPECIFIC ACTIONS

Following a criminal investigation or a prosecution

The police 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. In those circumstances, the LADO should 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 should 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.

On 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 LADO should discuss with the case manager and their HR Services provider whether the school 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 should consider how best to facilitate that. Most people will benefit from some help and support to return to work after a stressful experience. 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 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. 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 LADO should review the circumstances of the case with the case manager to determine whether there are any improvements to be made to the school procedures or practice to help prevent similar events in the future. 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. The LADO and case manager should consider how future investigations of a similar nature could be carried out without suspending the individual.

Appendix A

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 at the school 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 cases are dealt with as quickly as possible, consistent with a fair and thorough process.

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.

Agreed by Governors

SIGNED:

DATED: