

Small Haven School Dealing with Allegations of Abuse Against Teachers and other Staff & Volunteers

Date	Review Date	Coordinator	Nominated Director
16/08/21	16/08/22	Principal Head	Director of Education

The Aims of this Guidance

To ensure that any allegation made against a teacher or other member of staff or volunteer at Small Haven School is dealt with fairly, quickly, and consistently, in a way that provides effective protection for children, and at the same time supports the person who is the subject of the allegation. It applies regardless of whether the alleged abuse took place in the school. Allegations against a teacher who is no longer teaching and historical allegations of abuse will be referred to the police.

Legislation

This guidance is based on:

The Children Act 1989

Section 175 of the Education Act 2002 (local authorities, governing bodies of maintained schools and institutions in the further education sector).

Section 157 of the Education Act 2002 and the Education (Independent School Standards) (England) Regulations 2010.

The Children Act 2004.

Section 11 of the Children Act 2004 (other agencies).

Section 141F, 1141G and 141H3 of the Education Act 2002.

KCSIE and the Revised Guidance September 2020 (updated 2021).

Scope

This guidance 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 in a school that provides education for children under 18 years of age:

- Behaved in a way that has harmed a child, or may have harmed a child;
- Possibly committed a criminal offence against or related to a child; or
- Behaved towards a child or children in a way that indicated he or she would pose a risk of harm if they work regularly or closely with children.

If an allegation relating to a child is made about a person who also undertakes paid or unpaid care of vulnerable adults, please refer to the Kent & Medway Safeguarding Adults Board policy document: Managing Concerns around People in Positions of Trust.

https://www.kent.gov.uk/__data/assets/pdf_file/0019/111169/Managing-Concerns-around-Peoplein-Positions-of-Trust.pdf

These behaviours should be considered within the context of the four categories of abuse: physical, sexual, emotional abuse and neglect.

Procedures for dealing with allegations

In the event of an allegation that meets the criteria above, the person responsible (case manager) for dealing with the allegation is the Principal Head. If the allegation is against the Principal Head/Designated Safeguarding Lead, the person responsible is one of the Deputy Designated Leads, Tim Catherall.

Initial Action by Person Receiving or Identifying an Allegation or Concern

The person to whom an allegation or concern is first reported should treat the matter seriously and keep an open mind. They should not:

- Investigate or ask leading questions if seeking clarification
- Make assumptions or offer alternative explanations
- Promise confidentiality, but they can give assurance that the information will only be shared on a 'need to know basis'

They should:

- Make a written record of the information (where possible in the person's own words), including the time, date and place of incident/s, persons present and what was said;
- Sign and date the written record and immediately report the matter to the Principal Head.

Initial Action by the Designated Senior Lead or Case 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 lead/case 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

The Local Authority Designated Officer (LADO) should be informed **within one working day** when allegations appear to meet the criteria. If you are not clear about whether a member of staff or volunteer should be referred across to the County LADO Service, you can call on 03000 410 888 and ask to speak to the LADO Enquiries Officer. In doing so you can discuss the situation, without disclosing confidential information, and obtain advice on whether a referral should be submitted or if you need to be signposted to another service. Referrals should not be delayed in order to gather information.

If it is agreed that a formal referral to the LADO service is appropriate then the LADO referral should be sent to the service email box kentchildrenslado@kent.gov.uk The referral form is located on the KSCMP or KELSI websites.

The purpose of an initial discussion is for the LADO and the designated lead 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 designated lead and the LADO, and agreement reached as to what information should be put in writing to the individual concerned and by whom. The designated lead 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 designated lead should inform the accused person about the allegation as soon as possible after consulting the LADO. It is extremely important that they 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 designated lead 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 2013*.

Suspension

Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the school until the allegation or concern is resolved. An individual should only be suspended if there is no reasonable alternative. Suspension should be considered only in a case where there is cause to suspect a child or other children at the school are at risk of harm or the case so serious that it might be grounds for dismissal. Suspension should not be the default option but if used the reasons and justification should be recorded by the school and the individual notified of the reasons. The strategy meeting may advise a school to suspend but the actual decision will rest with the Principal Head or Directors.

Based on assessment risk the following alternatives should be considered by the Principal Head - Designated Lead 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;
- redeployment 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;
- temporarily redeploying the member of staff to a different location, for example to the office, if at all possible.

If immediate suspension is considered necessary, agree and record the rationale for this with the designated officer. The record will include information about the alternatives to suspension that have been considered, and why they were rejected. Written confirmation of the suspension will be provided to the individual facing the allegation or concern within 1 working day, and the individual will be given a named contact at the school and their contact details.

If it is decided that no further action is to be taken in regard to the subject of the allegation or concern, record this decision and the justification for it and agree with the designated officer what information should be put in writing to the individual and by whom, as well as what action should follow both in respect of the individual and those who made the initial allegation.

If it is decided that further action is needed, take steps as agreed with the designated

officer to initiate the appropriate action in school and/or liaise with the police and/or children's social care services as appropriate.

Provide effective support for the individual facing the allegation or concern, including appointing a named representative to keep them informed of the progress of the case and considering what other support is appropriate, such as a colleague or Benni support for counselling or medical advice.

Inform the parents or carers of the child/children involved about the allegation as soon as possible if they do not already know (following agreement with children's social care services and/or the police, if applicable). The case manager will also inform the parents or carers of the requirement to maintain confidentiality about any allegations made against staff (where this applies) while investigations are ongoing. Any parent or carer who wishes to have the confidentiality restrictions removed in respect of a member of staff will be advised to seek legal advice.

Keep the parents or carers of the child/children informed of the progress of the case and the outcome, where there is not a criminal prosecution, including the outcome of any disciplinary process (in confidence).

Make a referral to the DBS where it is thought that the individual facing the allegation or concern has engaged in conduct that harmed or is likely to harm a child, or if the individual otherwise poses a risk of harm to a child.

If the school is made aware that the secretary of state has made an interim prohibition order in respect of an individual, we will immediately suspend that individual from teaching, pending the findings of the investigation by the Teaching Regulation Agency.

Where the police are involved, wherever possible the Director of Education/Principal Head will ask the police at the start of the investigation to obtain consent from the individuals involved to share their statements and evidence for use in the school's disciplinary process, should this be required at a later point.

Additional considerations for supply staff

If there are concerns or an allegation is made against someone not directly employed by the school, such as supply staff provided by an agency, we will take the actions below in addition to our standard procedures.

We will not decide to stop using a supply teacher due to safeguarding concerns without finding out the facts and liaising with our local authority designated officer to determine a suitable outcome.

The Principal Head will discuss with the agency whether it is appropriate to suspend the supply teacher, or redeploy them to another part of the school, while the school carries out the investigation.

We will involve the agency fully, but the school will take the lead in collecting the necessary information and providing it to the local authority designated officer as required.

We will address issues such as information sharing, to ensure any previous concerns or allegations known to the agency are taken into account (we will do this, for example, as part of the allegations management meeting or by liaising directly with the agency where necessary).

When using an agency, we will inform them of our process for managing allegations, and keep them updated about our policies as necessary, and will invite the agency's HR manager or equivalent to meetings as appropriate.

Strategy Meeting

The meeting will normally include the LADO or their representative, a child protection adviser from Children's services, a senior leader from the school and depending on the circumstances the police and legal services. Other relevant individuals may be invited depending on the circumstances. 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 children in certain circumstances, including dealing with disruptive behaviour.

Where the initial consideration or strategy meeting decides the allegation does not involve a possible criminal offence or require a children's services investigation it should be dealt with by the school. In such cases if the nature of the allegation does not require formal disciplinary action, appropriate action should be instituted **within three working days**. If a disciplinary hearing is required and can be held without further investigation the hearing should be **held within 15 working days**.

If the strategy meeting decides a Section 47 enquiry or police investigation is required any unilateral action by the school will need to be suspended, unless otherwise agreed, until their investigations are complete. Protocols for sharing information a police or children's services investigation need to be agreed especially as a common outcome will be to refer the issue back to the school to consider as a disciplinary issue.

Where further investigation is required to inform consideration of disciplinary action the employer should discuss who will undertake that with the LADO. In some circumstances it may be appropriate for the disciplinary investigation to be conducted by a person who is independent of the employer or the person's line manager to ensure objectivity. In any case the investigating officer should aim to provide a report to the employer within 10 working days.

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

Substantiated: There is sufficient identifiable evidence to prove the allegation. Employer to refer to DBS.

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.

Action in respect of Unfounded or Malicious Allegations

For those cases where it is immediately clear that the allegation is unfounded or malicious then it is expected that they should be resolved within one week.

If an allegation is determined to be unfounded or malicious, the LADO should discuss the matter with ICS to determine whether the child concerned is in need of services or may have been abused by someone else.

For all allegations a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, a note of any action taken and the decisions reached should be kept on the confidential personnel file of the individual concerned and a copy of this

should be provided to the individual.

Supporting those Involved

The Principal Head should inform the accused person about the allegation as soon as possible after consulting the LADO. The Principal Head should provide them with as much information as possible at the time. However, where a strategy discussion is needed, or police or local authority's social care services need to be involved, the Principal Head should not do that until those agencies have been consulted, and have agreed what information can be disclosed to the person.

Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations and disciplinary process. Support for the individual is key to fulfilling this duty. Individuals should 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 local authority social care services or the police. The individual should be advised to contact their trade union representative, if they have one, or a colleague for support. When appropriate they should also be given access to welfare counseling or medical advice where this is provided by the employer.

The school should 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 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.

Parents or carers of a child or children involved should 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 local authority children's social care services need to be involved, the head should consult those agencies and agree what information can be disclosed to the parents. They should 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 should be told the outcome in confidence. Parents and carers should also be made aware of the prohibition on reporting or publishing allegations about teachers in section 141F of the Education Act 2002.

Confidentiality

It is extremely important that when an allegation is made, the school makes every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.

Small Haven School should take advice from the LADO, police and local authority 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.

From 1st October 2012 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 pupil from the same school. Basically the reporting restrictions apply until the point that the accused person is charged with an offence.

The case manager should 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.
- How to manage press interest if and when it should arise.

Resignations and Settlement Agreements

The fact that a person tenders his or her resignation or ceases to provide their services must not prevent an allegation being followed up in accordance with these procedures. By the same token settlement agreements, by which a person agrees to resign if the school agrees not to pursue

disciplinary action, must not be used in these cases. **A referral to the DBS must be made if the criteria are met (Action on Conclusion of a Case).**

Record Keeping

The case manager will maintain clear records about any case where the allegation or concern meets the criteria above and store them on the individual's confidential personnel file for the duration of the case. Such records will include:

- A clear and comprehensive summary of the allegation
- Details of how the allegation was followed up and resolved
- Notes of any action taken and decisions reached (and justification for these, as stated above).

If an allegation or concern is not found to have been malicious, the school will retain the records of the case on the individual's confidential personnel file, and provide a copy to the individual. Where records contain information about allegations of sexual abuse, we will preserve these for the Independent Inquiry into Child Sexual Abuse (IICSA), for the term of the inquiry. We will retain all other records at least until the individual has reached normal pension age, or for 10 years from the date of the allegation if that is longer.

The records of any allegation that is found to be malicious will be deleted from the individual's personnel file.

References

When providing employer references, we will not refer to any allegation that has been proven to be false, unsubstantiated or malicious, or any history of allegations where all such allegations have been proven to be false, unsubstantiated or malicious.

Learning lessons

After any cases where the allegations are *substantiated*, we will review the circumstances of the case with the local authority's designated officer to determine whether there are any improvements that we can make to the school's procedures or practice to help prevent similar events in the future. This will include consideration of (as applicable):

- Issues arising from the decision to suspend the member of staff
- The duration of the suspension
- Whether or not the suspension was justified
- The use of suspension when the individual is subsequently reinstated. We will consider how future investigations of a similar nature could be carried out without suspending the individual

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 or 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.

Action Following a Criminal Investigation or a Prosecution

The police or the Crown Prosecution Service (CPS) should inform the school and LADO straight away 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 Principal Head, and Directors whether any further action, including disciplinary action, is appropriate and, if so, how to proceed taking into account information provided by the police and/or children's social care services.

Action on Conclusion of a Case

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 case manager will discuss with the designated officer whether to make a referral to the DBS for consideration of whether inclusion on the barred lists is required. If they think that the individual has engaged in conduct that has harmed (or is likely to harm) a child, or if they think the person otherwise poses a risk of harm to a child, they must make a referral to the DBS. If the individual concerned is a member of teaching staff, the case manager and personnel adviser will discuss with the designated officer whether to refer the matter to the Teaching Regulation Agency to consider prohibiting the individual from teaching.

There is also a legal requirement for employers 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. In such circumstances, the duty to refer an individual to the DBS arises where an employer 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. Professional misconduct cases should be referred to the relevant regulatory body. The DBS will consider whether to bar the person from working in regulated activity, which will include work in schools and other educational establishments. Local authorities & schools and other bodies all have a statutory duty to make reports, and to provide relevant information to the DBS. Referrals should 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.

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 Principal Head or Director should 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.

Individuals returning to work after suspension

If it is decided on the conclusion of a case that an individual who has been suspended can return to work, the case manager will consider how best to facilitate this.

The case manager will also consider how best to manage the individual's contact with the child or children who made the allegation, if they are still attending the school.