



Policy: Allegations of Abuse against Staff

Author: Rosy Lord, Head of HR
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1. Introduction

The Eastern Multi-Academy Trust takes its responsibility of care for its students seriously. We recognise that any possibility that a member of staff may have hurt a student must be investigated thoroughly, but in a way that does not prejudice either the student or the member of staff. Any investigation of an allegation of abuse against a member of staff must follow the objective, professional standards and routines described here.

For Central Trust staff where it states Principal, read Chief Executive.

2. The Law

The framework for managing cases of allegations of abuse against people who work with children is set out in 'Working Together to Safeguard Children: A guide to interagency working to safeguard and promote the welfare of children' (March 2010) which provides an overview of how allegations should be handled. It is relevant for the purposes of s.157 and s.175 of the Education Act 2002.

Other legislation:

- ❑ 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).

3. Initial Allegation Made to the Academy

Any allegation of abuse by a member of staff on a student must be reported to the Principal. Should the initial allegation first be made to any other member of staff then that member of staff must either request the person raising the allegation to report it to the Principal or if that is not possible to pass details of the allegation to the Principal immediately.

Should the allegation be made against the Principal then this should be brought to the attention of the Chair of Governors and/or Chief Executive of the Trust immediately.

Should the allegation meet any of the following criteria then the Principal should report the allegation to the Local Authority Designated Officer the same day that the allegation is received: A teacher or member of staff (including a volunteer) in a school, FE college or other education establishment that provides education for children under 18 years of age has:

- ❑ 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 indicates they are unsuitable to work with children.

4. Initial Consideration

The Principal will discuss the matter with the Local Authority Designated Officer and provide any further details of the allegation and the circumstances in which it was made. The Principal should not investigate the allegation at this stage. The discussion will also consider whether there is evidence or information that establishes that the allegation is false or unfounded.

If the allegation is not patently false and there is cause to suspect that a child is suffering or is likely to suffer significant harm, the Local Authority Designated Officer will immediately refer to Children's Social Care and ask for a strategy discussion in accordance with Working Together to Safeguard Children to be convened straight away. In those circumstances the strategy discussion should include the Local Authority Designated Officer and the Principal.

If there is not cause to suspect that "significant harm" is an issue, but a criminal offence might have been committed, the Local Authority Designated Officer should immediately inform the Police and convene a similar discussion to decide whether a Police investigation is needed. That discussion will also involve the Academy and any other agencies involved with the child.

5. Action Following Initial Consideration

Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the Principal to deal with it. In such cases, if the nature of the allegation does not require formal disciplinary action, the Principal should institute

appropriate action 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.

Where further investigation is required the Principal should discuss who will undertake that with the Local Authority Designated Officer.

Any investigation will be conducted under the auspices of the Disciplinary Policy and Procedure. The investigating officer should aim to provide a report to the Principal within 10 working days.

On receipt of the report of the investigation, the Principal (and Chair of Governors?) should consult the Local Authority Designated Officer, and decide whether a disciplinary hearing is needed within two working days. If a hearing is needed it should be held within 15 working days.

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

The Local Authority Designated Officer should continue to liaise with the Academy to monitor progress of the case and provide advice or support when required or requested.

6. Cases Where a Crime may have been Committed

If there is no cause to suspect that significant harm is an issue, but a criminal offence might have been committed, the LADO should immediately inform the Police and convene a similar discussion to decide whether a police investigation is needed. That discussion should also involve the Academy.

Where the involvement of Children's Social Work Services is not required as the student is not assessed to be at risk of Significant Harm but a Police investigation continues, the LADO should agree with the Police, the Academy and any other agency involved with the child the nature of the allegation and how this must be addressed.

This Joint Evaluation Discussion must take place within one working day of the referral and must consider how to progress enquiries e.g. a criminal process parallel with a disciplinary process or whether disciplinary action needs to be suspended until Police enquiries/prosecution are completed.

These investigations must be reviewed by the Police no later than 4 weeks after the Joint Evaluation Discussion and thereafter at fortnightly or monthly intervals.

If the Police and/or the Crown Prosecution Service (CPS) decide not to charge the individual with an offence, or decide to administer a caution, or the person is acquitted

by a Court, the Police should pass all information they have which may be relevant to a disciplinary case to the Academy without delay. In those circumstances, the Principal should deal with the case in consultation with the LADO.

If the person is convicted of an offence, the Police should also inform the employer straight away so that appropriate action can be taken.

7. Allegations which are likely to necessitate an immediate referral for child protection

The following situations will require immediate referral to child protection:

- ❑ Where the student has suffered, is suffering, or is likely to suffer significant or serious harm.
- ❑ Where the student alleges that a criminal offence has been committed.
- ❑ Any allegation of a sexual nature.

The Principal should be aware that some other complaints may also be regarded as child protection issues and therefore each complaint should be carefully considered in consultation with the LADO before taking any action.

Where allegations of the above are referred to Children's Services, subsequent action will be in accordance with the Local Safeguarding Children Board procedures.

8. Suspension

The possible risk of harm to children posed by an accused person needs to be effectively evaluated and managed in respect of the child(ren) involved in the allegations. In some cases that will require the Academy to consider suspending the person until the case is resolved. Suspension must not be an automatic response when an allegation is reported. If the Academy is concerned about the welfare of other children in the community or the teacher'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.

Suspension should only be considered in a case where there is cause to suspect a child or other children at the Academy is or are at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal. However, a person should not be suspended automatically, or without careful thought being given to the particular circumstances of the case.

The Academy must consider carefully whether the circumstances of the case warrant a person being suspended from contact with children at the Academy until the allegation is resolved, and may wish to seek advice from the personnel adviser. The Academy should also consider whether the result that would be achieved by suspension could be obtained by alternative arrangements. For example, redeployment so that the individual

does not have direct contact with the child concerned, or providing an assistant to be present when the individual has contact with children. This allows time for an informed decision regarding the suspension and possibly reducing the initial impact of the allegation. This will however, depend upon the nature of the allegation. The Academy should consider the potential permanent professional reputational damage to teachers that can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended.

Where it has been deemed appropriate to suspend the person, written confirmation should be dispatched within one working day, giving the reasons for the suspension. The person should be informed at that point who their named contact is within the organisation and provided with their contact details.

Local authority children's social care services or the police cannot require the Academy to suspend a member of staff or a volunteer, although the Academy should give appropriate weight to their advice. The power to suspend is vested in the Principal or the governing body. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by the local authority social care services and/or an investigation by the police, the LADO should canvass police and the local authority children's social care services for views about whether the accused member of staff needs to be suspended from contact with children to inform the Academy consideration of suspension.

A risk assessment should be carried out for each individual case to determine whether the member of staff should be suspended. The assessment should take into account the context of the allegation, background information in relation to the member of staff, and any outcome following the strategy meeting. It should also take into account whether a temporary transfer or period of paid leave is appropriate as an alternative to suspension. The assessment must be recorded and a copy kept on file.

9. Strategy Meeting

A Strategy Meeting will be convened within one working day of the referral being made and chaired by the Child Protection and Review Unit. The LADO and all relevant personnel including, where appropriate, the Principal and HR, should attend this meeting in order to share information and participate in the planning of any enquiries. The strategy meeting will be conducted in accordance with LSCB procedures.

The Purpose.

- ❑ Consider the risk to the student and other students
- ❑ Share all relevant information about the person who is the subject of the allegation and about the alleged victim.
- ❑ Determine the need for investigation and by whom
- ❑ Plan the investigation/enquiries and set timescales for tasks to be undertaken

- ❑ Consider whether any other children are affected by the allegations e.g. the persons own children, grandchildren or other children in the agency setting such as children placed with foster carers, childminders, a youth club
- ❑ Ensure that the person who is the subject of the allegation is kept informed and supported
- ❑ Decide how regular information and support will be provided to the child and family and by whom
- ❑ Plan all interviews and agree who should undertake them so that there is no confusion between a criminal investigation (Section 47 Enquiry) and disciplinary processes
- ❑ Consider the need to inform relevant parties.
- ❑ Jointly consider how to manage any media interest.
- ❑ Consider whether the circumstances require the person who is subject to the allegation to be suspended from contact with students, though this may change as the investigation progresses and should be reviewed regularly.
- ❑ If the allegation is against a governor, a temporary member of staff or a supply teacher, the appropriate course of action needs to be considered.

10. Attendance

Attendance will be determined by Academy's procedures but will usually include representatives from Children's Services. The member of staff who is the subject of the allegation will not be invited to attend the meeting; however the strategy meeting will agree when and how the member of staff will be informed. The confidential minutes of the strategy meeting will be circulated by the Chairman of the meeting to relevant parties.

11. Communication following the strategy meeting

The following should be informed of the outcome of the investigation:

- ❑ The student making the allegation and their parent/carer of the likely course of action. Also informing them that the matter is confidential and must not be discussed.
- ❑ The member of staff against whom the allegation has been made. This should include the likely course of action. A record should be kept on the individual's personal file.
- ❑ The Chair of Governors should be informed of the likely course of action.

Subsequent Strategy Meetings should be held fortnightly, or at a maximum, monthly to review progress.

12. Monitoring progress

The LADO should regularly monitor the progress of cases, either via review Strategy Meetings, or by liaising with the Police and/or Children's Social Work Services

colleagues or the Academy, as appropriate. Reviews should be conducted at fortnightly or monthly intervals depending on the complexity of the case.

13. Referral to DFE

If on conclusion of the case the Academy ceases to use the person's services, or the person ceases to provide his or her services, the Academy should consult the Local Authority Designated Officer about whether a referral to the Disclosure & Barring Service (DBS) is required. If a referral is appropriate the report should be made within one month.

14. Keeping records

It is important that a clear and comprehensive record of any allegation is made even if police/disciplinary action is not taken or proven. This should include details of the allegation, how the allegation was followed up and resolved and a note of any action taken, including any sanctions imposed. The record should be kept on the member of staff's personal file. The purpose of this record is to enable accurate information to be given in response to any future reference request if the individual leaves the Academy. It is also important that accurate and detailed information is held in the event that the Disclosure and Barring Service (DBS) makes requests for further information. This information is given to the DBS is referred due to the nature of the allegation. A comprehensive record of all allegations will provide clarification in cases where a future DBS disclosure reveals information from the police about an allegation which did not result in a criminal conviction. The record should be retained until normal retirement age or for ten years if that is a longer period of time.

15. Confidentiality

Confidentiality should be maintained when an allegation is made. However there may be a need to share information with relevant agencies, for example at a strategy meeting on a need to know basis. Any enquiries from the press should be directed to the Principal and/or Chief Executive unless it is a Freedom of Information or Data Protection request in which case this should be referred to the Trust's Finance and Operations Director.

16. Action to be taken in respect of false allegations

If an allegation made by a student is proved to be false and/or malicious, action should be taken to determine whether the person who made the allegation is in need of services or may have been abused by someone else. In the case of a student deliberately inventing or making a malicious allegation, the Principal should consider talking action in accordance with the Management of Behaviour Policy. If it is clear to the Principal and the LADO that the allegation is demonstrably false or unfounded the member of staff should be informed orally and in writing of the allegation, that it is without foundation and that no further action will be taken. Where appropriate, and if requested, support should be offered, which could include Occupational Health and counselling services. If

an allegation made by a member of staff is proved to be false and/or malicious, an investigation should take place in accordance with the Academy Disciplinary Policy and Procedures. The Police may also consider taking action against the individual making the allegation.

17. Learning Lessons

Where an allegation has been made against a member of staff, lessons can be learned whether the allegations are proven or not. At the conclusion of a case, relevant parties should discuss what can be learned and therefore lead to improved practice, either to the Academy's procedures or to help prevent similar events in the future. The LADO and the Principal should review the case.

18. Information Sharing

In a strategy meeting or initial evaluation of the case the agencies concerned must share all relevant information they have about the person who is the subject of an allegation, and about the alleged victim, staff attending the strategy meeting should be prepared with the appropriate information – e.g. full name, address, when DBS check was completed, start date, involvement in youth activities, children of their own and any other information that could be helpful. As per procedures the police should obtain consent from the individuals concerned to share the statements and evidence they obtain with the Academy for disciplinary purposes. This should be done as their investigation proceeds rather than after it has concluded. This will enable the police to share relevant information without delay at the conclusion of their investigation or any court case. Children's Social Services should adopt a similar procedure when making enquiries to determine whether the student named in the allegation is 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 Academy without delay.

19. 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. It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process. Wherever possible the person should 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 regarded as substantiated on the basis of all the information available should continue even if that cannot be done or the person 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.

By the same token so called 'settlement agreements', by which a person agrees to resign, if the Academy agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, must not be used in these cases. In any event, such an agreement will not prevent a thorough police investigation where that is appropriate. Nor can it override the statutory duty to make a referral to the DBS or to the NCTL where circumstances require that.

For avoidance of doubt and to provide safeguards, no Settlement Agreement can be entered into without the authorisation of the Chief Executive. In any case where Settlement Agreements are approved, the Trust must comply with EFA policy which may include disclosure information which would otherwise be considered confidential.

20. Supporting Those Involved

Supporting the Employee

The Academy has 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. They could also be given access to welfare counselling or medical advice.

The Academy 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. That may include support from occupational health. 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.

Supporting the Parents

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 Principal should not do so until those agencies have been consulted and have agreed 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. In deciding what information to disclose, careful

consideration should be given to the provisions of the Data Protection Act 1998, the law of confidence and, where relevant, the Human Rights Act 1998.

In cases where a child may have suffered significant harm, or there may be a criminal prosecution, local authority social care services, or the police as appropriate, should consider what support the child or children involved may need.

21. Policy Review

This policy will be kept under review in order to keep it in line with relevant legislation and modifications authorised in line with the authorisation and issue process detailed below.

Definitions

Significant Harm

This is the threshold where compulsory Social Care intervention must take place. This was introduced by the Children Act 1989 and is defined by the Law Commission as: "Harm as a concept should be taken to include not only ill-treatment (including sexual abuse and forms of ill treatment that are not physical) but also the impairment of physical or mental health and the impairment of physical, emotional, social or behaviour development"

Abuse

Abuse can consist of physical, sexual, neglect and emotional. The definitions of abuse are below.

Types of abuse:

1. Physical abuse. This includes hitting, slapping, pushing, kicking, misuse of medication, restraint or inappropriate sanctions.
2. Sexual abuse. This includes rape, sexual activities to which a child has not/could not consent or was pressurised into consenting. Sexual activities could include physical contact or non physical contact. Non physical contact could be encouraging children/young people to watch sexual activities or behave in a sexually inappropriate way.
3. Neglect. This is the persistent failure to meet a child/young person's basic physical or psychological needs, likely to result in the serious impairment of the child/young person's health or development. It includes a failure to provide access to appropriate health, social care or educational services or withholding the necessities of life such as medication, adequate nutrition, clothing, shelter and heating.
4. Emotional abuse. Emotional is the persistent emotional maltreatment of a child/young person. This could have a severe and adverse effect on a child's/young person's development. This may involve conveying to the child/young person that they are worthless, or unloved, inadequate or valued only in so far as they meet the needs of another person. It also includes humiliation, blaming, controlling, intimidation, isolation or withdrawal from services or supportive networks. Some level of emotional abuse is involved in all types of maltreatment of a child/young person, although it may occur alone.

Position of Trust

Those working with children and young people should understand that they are in positions of power and trust in relation to these groups. There is potential for exploitation and harm to children and young people and employees have a responsibility to ensure that an unequal balance of power is not used for personal advantage or gratification. Employees should always maintain professional boundaries and avoid behaviour which might be misinterpreted by others.

INFORMATION GUIDE FOR EMPLOYEES FACING ALLEGATIONS

The aim of this information guide is to explain the processes involved, and the support and guidance available, if it is alleged that that you have:

- ❑ harmed a student or put a child at risk of harm, or
- ❑ committed a criminal act toward a student, or
- ❑ behaved in a way that raises concern about your suitability to work with children or young people

1. Initial Action

As soon as possible after the allegation is made, the Principal should consult the Local Authority Designated Officer (“LADO”) to discuss the next action, taking advice from Social Care and Police as needed. Police may advise that you are not told about the allegation immediately.

The Principal’s decision in consultation with the LADO will be one, or a combination of the following:

- a) The student is alleged to have suffered, or is likely to suffer significant harm - which requires immediate referral to Social Care
- b) A criminal offence is alleged - which requires referral to Social Care and Police
- c) The allegation represents poor or inappropriate behaviour - which should be considered under the Trust’s disciplinary and/or capability procedures, including referral if appropriate to the Academy’s occupational health advisor.
- d) The allegation is clearly and demonstrably without foundation and no further action will be taken.

If the conclusion of the initial discussions are a) or b) a Strategy Discussion should take place involving Police, Social Care, the Principal, LADO and the Academy’s HR Business Partner. You will not be invited. The discussion will focus on the needs of the student(s) who may be at risk. It will determine what action should be taken regarding further investigation, but it is not part of any disciplinary procedures.

If the initial discussions conclude the situation is as outlined in c): an investigation will be initiated under the Trust’s disciplinary and/or capability procedures.

If the conclusion is as outlined in d) you should be told orally and in writing that the allegation is without foundation, and that no further action will be taken.

2. Types of Possible Investigation

- ❑ Child protection enquiries by Social Care
- ❑ Criminal Investigation by Police
- ❑ Disciplinary/capability investigation

A disciplinary investigation will usually be held in abeyance until external agency investigations are complete, unless prior agreement is reached. Whilst these investigations should be conducted as speedily as possible, they should also be balanced against the need to be thorough and fair, in line with natural justice. Statements taken in external investigations could be used in subsequent disciplinary proceedings.

3. Suspension

Suspension is a neutral act, and should not be automatic. Where possible, the decision to suspend should be informed by the Strategy Discussion, and should only occur when the known facts relating to the allegation indicate:

- ❑ a student may be at risk
- ❑ the allegations are so serious that dismissal for gross misconduct is possible
- ❑ suspension is necessary to allow the conduct of the investigation to proceed unimpeded

Alternatives to suspension will be considered, e.g. leave of absence, transfer of duties, additional supervision.

Where suspension is being considered, an interview with you will normally be arranged. You have the right to be accompanied by a Trade Union representative or a colleague. You are advised to seek the assistance of your Union representative. If you are suspended, one of his/her roles will be to promote your interests and raise issues that may be of concern to you.

The interview is not an examination of the evidence, but an opportunity for you to make representations concerning possible suspension.

Other people, including other staff, should only be told about the allegation on a 'need to know basis'. Notification may be delayed if Police think this could prejudice an investigation.

Those who will be told of the allegation and likely course of action include you, the student concerned, his/her parent/carer, the person making the allegation, your manager, the Principal, HR, the LADO and the investigating agencies as above.

If you are suspended, those persons likely to be on a disciplinary panel, if convened, will be given limited information so any future disciplinary process is not prejudiced. If

the matter becomes common knowledge, it may be necessary to issue a brief statement, agreed by the agencies concerned, to parents, pupils and the public.

4. Support

You should expect to be:

- ❑ advised to contact your Union representative
- ❑ given a Support contact within the organisation who should keep you up to date with progress of your case
- ❑ given a team contact, if you are suspended, who will update you about normal organisation activities. Social contact with colleagues should not be precluded unless detrimental to the investigation. The type of information and frequency of contact should be agreed, but colleagues should not comment on or discuss the investigation
- ❑ offered Staff Counselling Service and/or Occupational Health support.

This may be a stressful time, so in addition to contacting your Union representative, you are advised to see your GP if you think your health may be affected.