



St George Catholic Voluntary Aided College (Southampton)

Allegations Against Staff Policy

Introduction

St George Catholic College is committed to providing the highest level of care for both its pupils and its staff. It is extremely important that any allegations of abuse against a teacher, Governors, any other member of staff or volunteer in our college is dealt with thoroughly and efficiently, maintaining the highest level of protection for the child whilst also giving support to the person who is the subject of the allegation. Our policy is in line with statutory guidance from the Department of Education.

This policy is designed to ensure that all staff, Governors, children and parents or carers are aware of the procedure for the investigation of allegations of abuse in order that all complaints are dealt with consistently, and as efficiently as possible.

Purpose

The procedure for dealing with allegations depends on the situation and circumstances surrounding the allegation. This policy must be followed when dealing with allegations but may be adapted to each case. This policy will be used alongside the school's Complaints Policy and Safeguarding Policy.

This policy will be used in any case where it is suspected or alleged that a member of staff, Governor, a teacher or a volunteer at the school has:

- behaved in such a way that may have harmed a child or may have intended to harm 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 would pose a risk of harm if they work regularly or closely with children.

Timescale

It is imperative that allegations against staff are dealt with as efficiently as possible to:

- minimise the risk to the child
- minimise the impact on the child's academic progress
- ensure a fair and thorough investigation for all parties

It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations must 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% of cases should be resolved within one month, 90% 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 unfounded or malicious, they should 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 employer to deal with it, although if there are concerns about child protection, the employer should discuss with the local authority designated officer (LADO).

In such cases, if the nature of the allegation does not require formal disciplinary action, the employer 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.

Procedure

All concerns of poor practice or possible child abuse by staff should be reported immediately to the Headteacher. Complaints about the Headteacher should be reported to the Chair of Governors who will then contact the LADO.

Staff who are concerned about the conduct of a colleague towards a pupil are undoubtedly placed in a very difficult situation. They may worry that they have misunderstood the situation and they will wonder whether a report could jeopardise their colleague's career. All staff must remember that the welfare of the child is paramount and must report their concerns immediately.

Common sense should prevail in all cases. Some allegations will be dealt with internally by the college without external support.

In the first instance, the Headteacher or Chair of Governors, should immediately discuss the allegation with the LADO. The purpose of an initial discussion is for the LADO and Headteacher/Chair to consider the nature, content and context of the allegation and agree a course of action.

The LADO may ask the Headteacher to provide or obtain relevant additional information, such as previous history, whether the child or their family have made similar allegations and the individual's current contact with children.

There may be situations when the Headteacher will want to involve the police immediately, for example if the person is deemed to be an immediate risk to children or there is evidence of a criminal offence. Where there is no such evidence, the Headteacher 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 Headteacher and the LADO and agreement reached on what information should be put in writing to the individual concerned and by whom. The Headteacher should then consider with the LADO what action should follow both in respect of the individual and those who made the initial allegation.

The Headteacher should inform the accused person about the allegation as soon as possible after consulting the LADO. It is extremely important that the Headteacher 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 Headteacher should not do that until those agencies have been consulted, and have agreed what information can be disclosed to the accused.

If the allegation is not demonstrably false or unfounded and there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion should be convened in accordance with *Working Together to Safeguard Children*. If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take into account that teachers and other College staff are entitled to use reasonable force to control or restrain pupils 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 should discuss the next steps with the case manager. In those circumstances, the options open to the College 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.

If a situation seems varied and complex, the Headteacher of the College may seek the assistance of an independent investigator but in any case the LADO should be informed of the case/issue to advise and give help.

Suspension

Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the college 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. Suspension must not be an automatic response when an allegation is reported: all options to avoid suspension should be considered prior to taking that step.

Suspension should be considered only in a case where there is cause to suspect a child or other children at the College is/are at risk of significant harm or the case is so serious that it might be grounds for dismissal. However, a person should not be suspended automatically: the Headteacher must consider carefully whether the circumstances warrant suspension from contact with children at

the college or until the allegation is resolved, and may wish to seek advice from their personnel adviser and the LADO.

The Headteacher should also consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements. In many cases an investigation can be resolved quickly and without the need for suspension. If the LADO, police and children's social care services have no objections to the member of staff continuing to work during the investigation, the Headteacher should be as flexible as possible to avoid suspension. Based on assessment of risk, the following alternatives should be considered by the Headteacher before suspending a member of staff:

- redeployment within the college 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 college 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 college 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 Headteacher should consider the potential permanent professional reputation damage to employees that can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended.

If immediate suspension is considered necessary, the rationale and justification for such a course of action should be agreed and recorded by both the Headteacher and the LADO. This should also include what alternatives to suspension have been considered and why they were rejected.

Where it has been deemed appropriate to suspend the person, written confirmation should be dispatched within one working day, giving as much detail as appropriate for the reasons for the suspension. It is not acceptable for an employer to leave a person who has been suspended without any support. The person should 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 Headteacher to suspend a member of staff or a volunteer, although they should give appropriate weight to their advice. The power to suspend is vested in the Governing Body of college 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 should canvass police and children's social care services for views about whether the accused member of staff needs to be suspended from contact with children in order to inform the college who may be considering suspension of a staff member

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.

Investigation

An investigation into the allegations is normally carried out by children's social services or by the college. This will be agreed at the initial evaluation stage. Where the college is not conducting the investigation it will cooperate with investigative agencies. Internal investigations must be second to any safeguarding investigation and may need to be delayed until the external investigation is complete.

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.

Supporting those involved

The person(s) who makes the allegation and their parents/carers:

Parents and carers will be notified if their child makes or is involved in an allegation against staff if they do not already know. However, if the police or social services are to be involved, they will be contacted first and will advise as to what information may or may not be disclosed to the parents. There will be a staff member designated to the role of liaising with the parents and child about the case and ensuring that they are fully informed as far as is possible. Parents and carers will be made aware of any progress in the investigation, and where there is no criminal prosecution, the outcome will be explained to them. This may be a disciplinary outcome. During a disciplinary hearing the deliberations and information used for making a decision are usually confidential, but parents will be told the outcome.

Social services and the police may be involved, depending on the severity of the case and will provide the school with advice on what type of additional support the child may need. The school's Whistle-Blowing Policy enables staff to raise concerns or allegations against their colleagues in confidence and for a sensitive enquiry to take place.

Supporting staff members

Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations process. Support for the individual is a 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 children's 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 should also be given access to welfare counselling or medical advice where this is provided by the employer.

The Headteacher 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. For staff at St George, that may include support via the local authority occupational health or employee welfare arrangements.

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 should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

Students and staff are also encouraged to seek spiritual support from the college Chaplain during this time if they wish.

Confidentiality

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

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 (where that identification would identify the teacher as the subject of the allegation). The reporting restrictions apply until the point that the accused person is charged with an offence or until the Secretary of State publishes information about an investigation or decision in a disciplinary case arising from the allegation.

The reporting restrictions also cease to apply if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a judge lifts restrictions in response to a request to do so.

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, e.g. an appeal to trace a suspect, they must apply to a magistrates’ court to request that reporting restrictions be lifted).

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.)

The Headteacher 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; and
- how to manage press interest if and when it should arise.

Resignations and ‘Compromise Agreements’

If the accused person resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with this guidance. 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 accused 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 substantiated on the basis of all the information available, should continue even if that cannot be done or the accused does not cooperate.

It may be difficult to reach a conclusion in those circumstances and it may not be possible to apply any disciplinary sanctions if a person’s period of notice expires before the process is complete but it is important to reach and record a conclusion wherever possible.

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, should not be used in these cases.

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 Disclosure and Barring Service (DBS) where circumstances require that.

Record Keeping

Details of allegations that are found to have been malicious should 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 Disclosures reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.

The record should be retained at least until the accused has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

References

Cases in which an allegation was proven to be false, unsubstantiated, unfounded or malicious should not be included in employer references. A history of repeated concerns or allegations which have all been found to be unsubstantiated, malicious etc. should also not be included in any reference.

Action on conclusion of the case

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

- a. *Substantiated*:** there is sufficient identifiable evidence to prove the allegation;
- b. *False*:** there is sufficient evidence to disprove the allegation;
- c. *Malicious*:** there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false;
- d. *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;
- e. *Unsubstantiated*:** this is not the same as false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term, therefore does not imply guilt or innocence

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 Headteacher and their HR adviser whether to refer the case to the DBS for consideration of inclusion on the barred lists; or to refer to the Teaching Agency.

There is 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.

The DBS will consider whether to bar the person from working in regulated activity, which will include most work in schools and other educational establishments. Local authorities, schools, FE colleges and other bodies all have a statutory duty to make reports, and to provide relevant information to the ISA. 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.

Professional misconduct cases should be referred to the relevant regulatory body.

Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the Headteacher 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 Headteacher should 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 College.

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 Headteacher to determine whether there are any improvements to be made to the college's 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 Headteacher should consider how future investigations of a similar nature could be carried out without suspending the individual.

Action in respect of unfounded or malicious allegations

If an allegation is determined to be unfounded or malicious, the LADO should refer the matter to the children's social care services to determine whether the child concerned is in need of services, or may have been abused by someone else.

If an allegation is shown to be deliberately invented or malicious, the Headteacher 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.

The college's Behaviour Policy sets out the disciplinary action that will be taken against pupils who are found to have made malicious accusations against college staff.

The Headteacher may wish to include the Chair of Governors when considering what action to take. The school has the power to suspend or expel pupils who make false claims, or refer the case to the police if the school thinks a criminal offence has been committed.

If the claim has been made by a person who is not a pupil, the school will hand the information over to the police who may take further action against that person.

Conclusion

- Any allegation against a child is very serious
- The Headteacher has a statutory duty to investigate the incident as quickly as possible
- The Headteacher should inform the LADO if the allegation is considered very serious
- St George Catholic College has a duty of care to the individual and to the child at the centre of the allegation
- Information should be shared with Police and social services if necessary
- Suspension should be a last resort
- Accurate records of the incident and investigation etc., are an absolute must
- There will be various possible outcomes as a result of the investigation
- The safety of children remains paramount
- False or malicious allegations should be dealt with by the college appropriately

After the case

No matter what the outcome is of an allegation of abuse against staff, the school will review the case to see if there are any improvements that can be made in its practice or policy that may help to prevent similar cases in the future.

This policy will be reviewed every two years.

Date of next review: March 2018

The Governing Body agreed this policy on 22 March 2016.