Hemingford Grey SCHOOL

Allegations of Abuse Against Staff in School

Date last reviewed and approved:	**February 2016**

ALLEGATIONS OF ABUSE AGAINST STAFF IN SCHOOL

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1. Introduction

All schools are under an absolute duty to promote and safeguard the welfare of children at the school, and to have regard to guidance issued by the Secretary of State in so doing. Hemingford Grey Primary School takes this responsibility seriously, and will ensure that any allegation of abuse made against a teacher or other member of staff or volunteer in the school is dealt with fairly, quickly and consistently, in accordance with the DfE guidance.

The procedure documented within this policy must be used in any case where it is alleged that a teacher or other member of staff or a volunteer at the school has:

• behaved towards a child or children in a way that has harmed 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 s/he is unsuitable to work with children.

All members of staff in the school will be made aware of this policy during induction.

2. How concerns arise

Concerns about the possible abuse of children by staff will usually arise in one of two ways, either:

• a direct allegation by a pupil or a third party, for example a parent; or
• an observation by a member of staff that the behaviour of a colleague is inappropriate or potentially or actually abusive.

In either case the concern must be recorded and reported to the Headteacher immediately, unless the allegations are about the Headteacher in which case, it must be reported to the Chair of Governors. If the Headteacher is absent, the allegation should be reported to the teacher in charge.

As this is a statutory duty, we expect all members of staff in the school, where they have concerns, to report them in accordance with this policy.

3. Initial action

The Headteacher or Chair of Governors will ensure that they have a full understanding of what is being alleged from the member of staff or third party, only speaking to the child if it is unavoidable or it is the child making the allegation.

No one in the school may investigate the incident by interviewing either those directly involved or any witnesses; to do so could prejudice a fair hearing at a later date.

The Headteacher or Chair of Governors will simply establish that:

• an allegation has been made;
• the general nature of the allegation;
• when and where the incident is alleged to have occurred;
• who was involved; and
• any other persons present

The matter will not be discussed with the person who is the subject of the allegation at this stage.

4. Consultation and referral
It is important to ensure that even allegations that appear to be less serious are seen to be followed up and taken seriously and that they are examined objectively by someone independent of the school concerned.

If the allegation meets any of the criteria set out in section 1 above, the Headteacher or Chair of Governors must report it to the Local Authority Designated Officer (LADO) on the same day. The contact numbers are: 01223 727968 / 01223 727969 / 01223 727967. The contact number for the Out of Hours Emergency Duty Team is 01733 234724.

If it is unclear whether the threshold for referral has been reached, the Headteacher or Chair of Governors can consult the Local Authority Access and Assessment Teams (LAAAT) before a formal referral is made.

5. Initial consideration of the allegation
The LADO first step will be to discuss the allegation with the Headteacher or Chair of Governors to confirm details of the allegation and establish that it is not demonstrably false or unfounded.

If the parents/carers of the child concerned are not already aware of the allegation, the LADO will also discuss how and by whom they should be informed.

In some circumstances the school may advise parents of an incident involving their child straight away, for example, if the child has been injured while at school or in a school related activity, and requires medical treatment.

The Headteacher will usually inform the accused person about the allegations as soon as possible after consulting the LADO. However, where a strategy discussion is needed, this will be deferred until after consultation with the police has taken place, and there is agreement about what information can be disclosed to the person.

If the person is a member of a union or professional association s/he will be advised to contact that organisation at the outset.

6. Strategy Meeting / Evaluation with Police
If the allegation is not demonstrably false or unfounded, a formal referral will be made to LADO and a strategy meeting planned. A strategy discussion will be convened in accordance with “Working Together to Safeguard Children”.

There may be up to three strands in the consideration of an allegation:

• a police investigation of a possible criminal offence;
• enquiries and assessment under section 47 of the Children Act 1989 if a child is in need of protection or under section 17 of the Children Act 1989 if the child appears to be in need of services; and
• consideration by the employer of disciplinary action in respect of the individual.

A senior school representative (Headteacher or Chair of Governors) will attend any strategy meeting, unless there are good reasons not to do so, and provide details about the circumstances and context of the allegation and the pupil and member of staff concerned.

7. Suspension
The possible risk of harm to children posed by an accused person needs to be assessed and managed – in respect of the child or children involved in the allegation, and any other children in the accused individual's home, work or community life.

Suspension will be considered in any case where:

• there is cause to suspect a child is at risk of significant harm;
• the allegation warrants formal investigation by the police;
• there is a likelihood that evidence may be tampered with, or witnesses intimidated; or
• the allegation is so serious that it might be grounds for dismissal.

The school will consider carefully whether the circumstances of a case warrant a person being suspended from contact with the children until the allegation is resolved. In deciding whether to suspend a member of staff, the school will consider advice given at a strategy meeting and any risk assessment.

8. Action where police or local authority investigation is not necessary
If the complaint or allegation is such that:

• it is clear that a criminal and/or child protection enquiries are not necessary, or
• the strategy discussion or initial evaluation decides that is the case, the Headteacher and Chair of Governors will discuss the next steps with the LADO.

In those circumstances the options open to the school depend on the nature and circumstances of the allegation and the evidence and information available, and will range from taking no further action or giving professional advice as part of an informal warning to conducting formal disciplinary action that could lead to dismissal or lesser formal warning.

If the nature of the allegation does not require formal disciplinary action/investigation, the Headteacher will institute appropriate action within three working days. This would normally be professional advice or an informal warning - although a record will be kept of this.

Where further enquiries will be needed to enable a decision about how to proceed, the Headteacher and Chair of Governors will agree with the LADO how and by whom the investigation will be undertaken.

In straightforward cases such investigation should normally be undertaken by a senior member of the school staff. However, if there is a lack of appropriate resources within a school or if the nature or complexity of the allegation so requires, an independent investigator will be appointed.

On receipt of the report of the disciplinary investigation, the Headteacher and Chair of Governors should consult the LADO, 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.

9. Action where police or local authority investigation is necessary
The police or the Crown Prosecution Service (CPS) should inform the school and LADO straight away:

• if it is decided to close an investigation without arrest or charge; or
• if it is decided not to prosecute after the person has been charged; or
• when a criminal investigation and any subsequent trial is complete.

In those circumstances, the LADO will discuss with the Headteacher and Chair of Governors whether any further action, including disciplinary action is appropriate and, if so, how to proceed. The information provided by the policy and the local authority will inform that decision.

10. Referral to DFE
If, on conclusion of the case, the school ceases to use the accused person's services, or the accused person resigns or ceases to provide his or her services, the school will consult its HR manager about whether a referral to the DBS for barring is required.

If a referral is appropriate, the report will be made within one month.

11. Supporting those involved
The Headteacher or Chair of Governors will notify the parents or carers of the child or children involved as soon as possible if they are not already aware of it – subject section 5 above.

The deliberations of a disciplinary hearing and the information taken into account in reaching a decision will not normally be disclosed, but the parents or carers of the child should be told the outcome.

The school will also keep the person who is the subject of the allegations informed of the progress of the case and consider what other support is appropriate for the individual.

Access to counselling services should be provided and if the person is suspended, the school should also keep the individual informed about developments at school and provide the employee with a named contact at the school. If the person is a member of a union or professional association s/he should be advised to contact that body at the outset.

12. Confidentiality
Any investigation will be done in confidence. Every effort will be made to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.

No-one in the school may provide any information to the press or media that might identify an individual under investigation, while an allegation is being investigated or considered.

No-one in the school may disclose any information to anyone about the details of an investigation, as this may prejudice the right of the person under investigation to a fair hearing.

The Headteacher or Chair of Governors 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 reasonable given to the wider community to reduce speculation; and
- How to manage press interest if and when it should arise.

13. Resignations and compromise agreements
Where a person is under investigation tenders his or her resignation, or ceases to provide their services, the investigation into the allegation will still need to be completed in accordance with 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.

The school will not enter into “compromise agreements” by which if a person agrees to resign, the school agrees not to pursue disciplinary action and both parties agree a form of words to be used in any future reference.

14. Record keeping
If anyone in the school has any concerns that may lead them to consider that an investigation is required, they must record and report the information to the Headteacher or Chair of Governors, as soon as practicable.

The Head Teacher will ensure that:

• a clear and comprehensive summary of any allegations is made;
• details of how the allegation was followed up and resolved is made;
• a note of any action taken and decisions reached, is kept on a person’s confidential personnel file, 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 reference. At the conclusion of the investigation, if the person under investigation is exonerated, the school will write to the person confirming this, and send a copy to the LADO and place a copy on the person’s personnel file.

15. Timescales
The school will endeavour to follow the timescales set out in the guidance for such investigations, as long as this is consistent with a fair and thorough investigation. However, it is acknowledged that serious and complex allegations are unlikely to be resolved quickly, particularly where specialist evidence is needed, or the matter comes to a contested trial.

16. Oversight and monitoring
The school will work closely with the LADO who has overall responsibility for oversight of the procedures for dealing with allegations.

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

17. Action on conclusion of a case
In cases where it is decided on the conclusion of the case that a person who has been suspended can return to work, the school will consider how best to facilitate that.

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.

18. Learning lessons
At the conclusion of a case in which an allegation is substantiated the Head Teacher and Chair of Governors will review the case with the LADO to determine whether there are any improvements to be made to the school’s procedures or practice to help prevent similar events in the future.

19. Actions in respect of malicious allegations

In the rare event that an allegation is shown to have been deliberately invented or malicious, the Headteacher 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.

20. Allegations concerning staff not directly employed by the school

In some cases, the school will need to consider an investigation case in which normal disciplinary procedures do not apply, and may need to act jointly with another organisation.

That will be necessary when, for example, an allegation is made against a supply teacher provided by an employment agency or business, or against a person employed by a contractor, or a volunteer provided by a voluntary organisation. In some cases normal disciplinary procedures may not be appropriate because the person is a volunteer or self-employed.

Although in those cases, the school will not have a direct employment relationship with the individual, the school will cooperate in an investigation, and in reaching a decision about whether to continue to use the person's services, or to provide the person for work with children in future, and whether to report the person to DFE.

A Guide for Staff Faced with an Allegation of Abuse can be found at Appendix 1.

Appendix 1

A Guide for Staff Faced with an Allegation of Abuse

This handout provides information for staff and volunteers who work with children and are faced with an allegation of abuse against them

Introduction

Any allegation of abuse is likely to cause anxiety and concern. This guide is intended to help you be as well informed as possible should you be faced with an allegation. It provides an explanation of the process and offers information about appropriate support and guidance.

The Headteacher, Chair of Governors or a senior manager, responsible for dealing with allegations, should immediately consult the Local Authority Designated Officer (LADO) who is responsible for the management and oversight of individual cases, if it is alleged that a member of staff or volunteer 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 in a way that indicates s/he is unsuitable to work with children.

You should be told about the allegation as soon as possible, but this may be delayed if the Police or Children's Social Care need to agree what information can be disclosed. If the senior manager and LADO are clear that an allegation is demonstrably false, you should also be informed of this and told that no further action will be taken.

What happens next?

If there is cause to suspect that a child has been, or could be, harmed or a criminal offence might have been committed, a strategy discussion will be held, involving Police, the LADO, your employer, Social Care and other agencies as appropriate. The aim of the strategy discussion will be to share relevant information, plan and determine whether an investigation needs to be conducted by:

- Social Care under child protection procedures;
- Police regarding any possible criminal offences; or
- Your employer under disciplinary/capability procedures.

Internal Investigations

Your employer may need to conduct an internal investigation in order to decide how to proceed. It may be conducted by a senior member of staff or by an independent person, depending on the availability of resources and the nature/complexity of the case. It may also need to be delayed so as not to prejudice possible criminal proceedings and investigation, which usually have to take precedence. Your employer will inform you of this.

Volunteers and Supply Workers

If you are a supply worker or volunteer, the placing agency should be involved and co-operate in any investigation. If disciplinary procedures do not apply, an investigation may still be necessary to assess your suitability to work with children.

Resignations and Compromise agreements

Your employer should try to reach a conclusion regardless of whether you resign or otherwise cease to provide your services, or if you refuse to co-operate. They must not use a "compromise agreement," i.e. allow you to resign without disciplinary action and with an agreed reference.

Timescales
Cases should be dealt with as quickly as possible consistent with a fair and thorough investigation. Government guidance sets out target timescales, but these will depend on factors such as the nature, seriousness and complexity of the allegation. Your case will be monitored in order to avoid unnecessary delay. However, delays can often occur if criminal proceedings are taken.

Suspension
Suspension is a neutral act, not a sanction. It should not be automatic and alternatives should be considered. Your employer has the final decision, but should take into account the views of Police and Social Care if they are involved. Suspension should be considered in all cases where:

• there is cause to suspect a child is at risk of significant harm, or
• the allegation warrants a police investigation, or
• it is serious enough to be grounds for dismissal

If suspension is being considered, procedures will apply and will normally involve an interview with you having the right to be accompanied by a Trade Union representative or a friend. If such a meeting does occur it is not an examination of the evidence, but an opportunity for you to make representations concerning suspension. If you are to return to work after suspension, your employer should consider how best to manage this, e.g. mentoring.

Support
Your manager should advise you about seeking adequate support for yourself; this may include a range of things including:

• advice to contact your Union representative;
• being given the name of a contact who will keep you up to date with progress of the case;
• being given the name of a contact to keep you up to date with work activities if suspended (you should not discuss the case with colleagues);
• an offer of the services of the Staff Counselling Service and/or Occupational Health if available.

You are also advised to contact your GP if you feel your health is being affected.

Notifications
Confidentiality should be respected and people only told on a ‘need to know’ basis. If the matter becomes subject to speculation, your employer, after appropriate consultation, may need to issue a statement for parents, children or the public.

Record Keeping
A comprehensive summary of the case should be kept on your confidential personnel file and retained until normal retirement age or 10 years after the allegation, if longer. This includes allegations found to be without substance. You should be provided with a copy of the summary. Other agencies, if involved, will keep their own records.

Independent Safeguarding Authority
Your employer, and placing agency if appropriate, have a statutory duty to report details of the case to the DBS where an independent panel will consider the case of barring you from, or placing restrictions on, working with children or young people, if:

• you are dismissed for misconduct or because you are otherwise considered unsuitable to work with children, or

• you resign before a disciplinary process is completed and your employer considers that the evidence was sufficient to consider dismissal

If you are referred, you will be sent a letter explaining the process, including your right to make representation.

Alleged criminal offence
If police decide to investigate, you may be arrested or invited to assist voluntarily with the investigation. You should contact your Trade Union and/or a solicitor for advice. If arrested or interviewed, you should be cautioned: "You do not have to say anything but it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence."

At the police station you will be entitled to free and independent legal advice. You can see a Duty Solicitor, but if you want to use your own make sure he/she specialises in criminal law.

If 'assisting with the investigation' and not under arrest, you should be told that you are free to leave if you wish to do so. If arrested, you will be seen by the Custody Officer who will explain your rights in detail, including the right to have someone informed and to consult and read the "Code of Practice" that covers treatment during detention and interview. The Custody Officer will maintain a record of your period of detention.

Following arrest you can usually be held for up to 24 hours, after which you must be charged or released. This can be extended up to 36 or 96 hours by a Superintendent or Magistrate, respectively, depending on the seriousness.

Decisions about charging rest with the Crown Prosecution Service (CPS) who act independently of the police. If you admit the offence, the CPS may advise a caution, i.e. a formal warning about your actions. A caution will be recorded by the police and may influence a decision about instituting proceedings should you offend again. A caution could affect your ability to work with children in the future, and in sexual abuse cases could result in you being placed on the Sex Offenders Register. You should seek advice from your solicitor before agreeing to accept a caution.

If the CPS advises the police to charge you, this will be carried out by the custody officer. You will then either be released on bail to appear in court at a future date or kept in custody to appear at the next available court. The responsibility for the prosecution will lie with the CPS.

After criminal proceedings it may still be that your employer decides to take disciplinary action. In any case you will be informed of any proposed actions as soon as possible after completion of criminal proceedings.

At any time during an allegation investigation/enquiry please do ask questions if you are not clear what is happening or why.

Staff involved in making enquiries do recognise the anxieties raised by such matters, but must ensure a fair and thorough approach at all times. If you feel this is not happening please do raise this with the Headteacher or Chair of Governors.