

## The Samworth Church Academy

# **ABUSE ALLEGATION PROCEDURE**

## **1 Introduction**

- 1.1 All allegations of abuse of children by those who work with children must be taken seriously. Allegations against any person who works with children, whether in a paid or unpaid capacity, cover a wide range of circumstances.
- 1.2 This procedure should be applied when there is such an allegation or concern that a person who works with children 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;
  - behaved in a way that indicates he/she is unsuitable to work with children.
- 1.3 These behaviours should be considered within the context of the four categories of abuse (i.e. physical, sexual and emotional abuse and neglect). These include concerns relating to inappropriate relationships between members of staff and children or young people, for example;
- having a sexual relationship with a child under 18 if in a position of trust in respect of that child, even if it is claimed to be consensual (see ss16 – 10 Sexual Offences Act 2003);
  - 'grooming', i.e. meeting a child under 16 with intent to commit an offence (see s15 Sexual Offences Act 2003);
  - other 'grooming' behaviour which may not meet the criminal threshold but gives rise to concerns of a broader child protection nature (e.g. inappropriate text/email messages or images, gifts, socialising etc.);
  - possession of indecent photographs/pseudo photographs of children.
- 1.4 If concerns arise about the person's behaviour to his/her own children, the police and/or Children's Social Care must consider informing the Academy in order to assess whether there may be implications for children with whom the person has contact at the Academy, in which case this procedure will apply.
- 1.5 All staff must be aware of the Academy's Whistle Blowing Procedure and Child Protection Policy and feel confident to voice concerns about actions or attitudes of colleagues.
- 1.6 Allegations of historical abuse should be responded to in the same way as contemporary concerns. In such cases, it is important to find out whether the person against whom the allegation is made is still working with children and if so, to inform the person's current employer or voluntary organisation or refer their family for assessment.
- 1.7 All references in this document to 'staff or members of staff' should be interpreted as meaning all paid or unpaid staff/professionals or volunteers, including for example foster carers, prospective adopters and child minders. This document also applies to any person, who manages or facilitates access to an establishment where children are present.

## **2 Roles and Responsibilities**

- 2.1 Both the Nottinghamshire County Safeguarding Children Board (NSCB) and the Nottingham City Safeguarding Children Board (NCSCB) member organisations should identify a named senior officer with overall responsibility for:
- ensuring that the Academy deals with allegations in accordance with the Local Safeguarding Children Board (LSCB) procedures;
  - resolving any inter-agency issues;

- liaising with the LSCB on the subject.
- 2.2 The Local Authority has assigned a Local Authority Designated Officer (LADO) to:
- receive reports about allegations and to be involved in the management and oversight of individual cases;
  - provide advice and guidance to employers and voluntary organisations;
  - liaise with the police, Children’s Social Care and other agencies;
  - monitor and quality assure the progress of cases to ensure they are dealt with as quickly as possible and consistent with a thorough and fair process;
  - provide advice and guidance to employers in relation to making referrals to the Disclosure and Barring Service (DBS) and regulatory bodies such as Ofsted;
  - seek to resolve inter-agency issues;
  - liaise with other LADOs where appropriate.
- 2.3 The Academy should appoint:
- a senior safeguarding professional for abuse allegations, normally the Principal, to whom allegations or concerns should be reported;
  - a deputy to whom reports should be made in the absence of the Principal or where that person is the subject of the allegation or concern.
- 2.4 Reference may be made to the Department for Education (DfE) Guidance for Safe Working Practice for Adults who Work with Children and Young People March 2009. Reference will be made to Keeping Children Safe in Education March 2015.

### **3 General Considerations Relating to Allegations Against Staff**

- 3.1 The Academy must inform the LADO within **one working** day when an allegation is made and prior to any further investigation being made.
- 3.2 The LADO will advise the Academy whether or not informing the parents of the child/ren involved will impede the disciplinary or investigative processes. Acting on this advice, if it is agreed that the information can be fully or partially shared, the Academy should inform the parent/s. In some circumstances, the parent/s may need to be told straight away (e.g. if the child is injured and requires medical treatment).
- 3.3 The parent/s and the child if sufficiently mature, should be helped to understand the processes involved and be kept informed about the progress of the case and of the outcome where there is no criminal prosecution. This will include the outcome of any disciplinary process, but not the deliberations of, or the information used in, a hearing.
- 3.4 The Academy should seek advice from the LADO, the police and Children’s Social Care about how much information should be disclosed to the accused person.
- 3.5 Subject to restrictions on the information that can be shared, particularly if there is a police investigation, the Academy should, as soon as possible, inform the accused person about the nature of the allegation, how enquiries will be conducted and the possible outcome (e.g. disciplinary action and dismissal or referral to the DBS or regulatory body).
- 3.6 If it is concluded that the police and/or Children’s Social Care need to be involved in further enquiries, informing the accused should not happen prior to a Strategy Discussion or until the decision is made at a Strategy Meeting.
- 3.7 The accused member of staff should;
- be treated fairly and honestly and helped to understand the concerns expressed and processes involved;

- if suspended, be kept up to date about events at the Academy;
- offered support from the Academy.

#### **4 Confidentiality**

- 4.1 Every effort should be made to maintain confidentiality and guard against publicity while an allegation is being investigated or considered. Apart from keeping the child, parents and the accused person (where this would not place the child at further risk or compromise evidence) up to date with progress of the case, information should be restricted to those who have a need to know in order to protect children, facilitate enquiries, manage related disciplinary or suitability processes.
- 4.2 Section 13 of the Education Act 2011 introduced restrictions implemented in September 2012 on the publication of any information that would identify any teacher who is the subject of an allegation of misconduct that would constitute a criminal offence, where the alleged victim is a registered pupil at the school.
- 4.3 Such restrictions remain in place unless or until the teacher is charged with a criminal offence, though they may be dispensed with on the application to the Magistrates' Court by any person, if the court is satisfied that it is in the interests of justice to do so, having regard to the welfare of;
- a. the person who is the subject of the allegation; and
  - b. the victim of the offence to which the allegation relates.

There is a right of appeal to the Crown Court.

- 4.4 This restriction applies to any teacher who works at a school, including supply and peripatetic teachers. 'School' includes academies, free schools, independent schools and all types of maintained schools.
- 4.5 There is a new offence of publishing any information in breach of these restrictions. Publication includes any communication, in whatever form, which is addressed to the public at large and any section of the public.
- 4.6 It is not a defence to show that the person publishing was not aware of the allegation having been made as set out in section 141H 'Defences' of the Act.

#### **5 Support**

- 5.1 The Academy together with Children's Social Care and/or police, where they are involved, should consider the impact on the child concerned and provide support as appropriate. Liaison between the agencies should take place in order to ensure that the child's needs are addressed.
- 5.2 As soon as possible after an allegation has been received, the accused member of staff should be advised to contact their union or professional association. Human resources should be consulted at the earliest opportunity in order that appropriate support can be provided via the Academy's occupational health or welfare arrangements.

#### **6 Suspension**

- 6.1 Suspension is a neutral act and it should not be automatic. It should be considered in any case where:
- there is cause to suspect that a child is at risk of harm or has been significantly harmed; or
  - the allegation warrants investigation by the police; or
  - the allegation is so serious that it might be grounds for dismissal.

- 6.2 The possible risk of harm to children should be evaluated and managed in respect of the child/ren involved and any other children in the accused member of staff's home, work or community life.
- 6.3 If a strategy meeting/discussion is to be held or if the respective Children's Social Care or the police make enquiries, the LADO should canvass their views on suspension and inform the Academy.
- 6.4 If a suspended person is to return to work, the Academy should consider what help and support might be appropriate (e.g. a phased return to work and/or provision of a mentor) and also how to best manage the member of staff's contact with the child concerned, if still in the Academy.

## **7. Resignations and 'compromise agreements'**

- 7.1 Every effort should be made to reach a conclusion in all cases even if:
- the individual refuses to cooperate, having been given a full opportunity to answer the allegations and make representations;
  - it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete.
- 7.2 Compromise agreements must **not** be used (i.e. where a member of staff agrees to resign provided that disciplinary action is not taken and that a future reference is given). A settlement/compromise agreement which prevents the Academy from making a DBS referral when the criteria are met for so doing would likely result in a criminal offence being committed for failure to comply with the duty to refer.

## **8 Organised abuse**

- 8.1 Investigators should be alert to signs of organised or widespread abuse and/or the involvement of other perpetrators or institutions. They should consider whether the matter should be dealt with in accordance with complex abuse procedures which, if applicable, will take priority.
- 8.2 Historical allegations should be responded to in the same way as contemporary concerns. It will be important to ascertain if the person is currently working with children and if that is the case, to consider whether the current employer should be informed.

## **9 Whistle Blowing**

- 9.1 All staff should be aware of the Academy's Whistle Blowing Procedure and feel confident to voice concerns about the attitude or actions of colleagues.
- 9.2 If a member of staff believes that a reported allegation or concern is not being dealt with appropriately by the Academy, they should report the matter to the LADO.

## **10. Timescales**

- 10.1 It is in everyone's interest for cases to be dealt with expeditiously, fairly and thoroughly and for necessary delays to be avoided. It is reasonable to expect that 80% will be achieved within one month, 90% within 3 months and all but the most complex cases should be resolved within 12 months. Timescales are calculated from the date the incident was referred. Where timescales are not going to be met the reason for this should be included within the strategy discussion and minutes.

## **11. Initial Response to an Allegation or Concern**

- 11.1 An allegation against a member of staff may arise from a number of sources (e.g. a report from a child, a concern raised by another adult in the Academy or a complaint by a parent). It may also arise in the context of the member of staff and their life outside the Academy or at home.
- 11.2 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;
  - ask a child to write a statement or write down their version of events;
  - make assumptions or offer alternative explanations;
  - promise confidentiality, but 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 child/adult's own words), including the time, date and place of incident/s, persons present and what was said;
  - sign and date the written record;
  - immediately report the matter to the Principal, or the deputy in their absence; or where the Principal is the subject of the allegation report to the Chair of Governors.
- 11.3 When informed of a concern or allegation, the Principal should not 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);
  - approve and date the written details;
  - record any information about times, dates and locations 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.
- 11.4 The Principal should report the allegation to the LADO and discuss the decision in relation to the agreed threshold criteria in the Management of Allegations Against Staff or Volunteers Who Work with Children **within one working day**. Referrals should not be delayed in order to gather information and a failure to report an allegation or concern in accordance with procedures is a potential disciplinary matter.
- 11.5 If an allegation requires immediate attention, but is received outside normal office hours, the Principal should consult the respective Children's Social Care Emergency Duty Team or local police and inform the LADO as soon as possible.
- 11.6 There are up to 3 strands in the consideration of an allegation:
- a police investigation of a possible criminal offence;
  - the respective Children's Social Care enquiries and/or assessment about whether a child is in need of protection or services;
  - consideration by the Academy of disciplinary action.
- 11.7 The LADO and the Principal should consider first whether further details are needed and whether there is evidence or information that establishes the allegation is false. Care should be taken to ensure that the child is not confused as to dates, times, locations or identity of the member of staff.

11.8 If the allegation is not demonstrably false and there is cause to suspect that a child is suffering or likely to suffer significant harm, the LADO should refer to the respective Children's Social Care and ask them to convene an immediate Strategy Meeting/Discussion.

- If a child is not believed to have suffered, or to be likely to suffer significant harm but a police investigation will continue, the LADO should conduct this discussion with the police, the Principal and any other agencies involved to evaluate the allegation and decide how it should be dealt with.
- This evaluation discussion should take place within one working day and must consider how to take matters forward in a criminal process parallel with a disciplinary process or whether any disciplinary action will need to await the completion of the police enquiries and/or prosecution. The progress should be reviewed by the police no later than four weeks after the initial evaluation meeting and thereafter at fortnightly or monthly intervals.

11.9 Wherever possible, a strategy meeting/discussion should take the form of a meeting. However, on occasions telephone discussion may be justified. The following is a list of possible participants, depending on the scenario and circumstances;

- LADO
- Social Care manager to chair (if a strategy meeting);
- Relevant social worker and their manager;
- Detective Sergeant;
- The Designated and/or named Safeguarding Children Health Professional;
- Consultant Paediatrician
- The Principal;
- Human resources representative;
- Legal adviser where appropriate;
- Manager from the fostering service provider when an allegation is made against a foster carer;
- Ofsted;
- Where a child is placed or resident in the area of another authority, representatives of relevant agencies in that area.

11.10 The strategy meeting/discussion should:

- decide whether there should be a Section 47 Enquiry and/or police investigation and consider the implications;
- consider whether any parallel disciplinary process can take place and agree protocols for sharing information;
- consider the current allegation in the context of any previous allegations or concerns;
- where appropriate, take account of any entitlement by staff to use reasonable force to control or restrain children (e.g. section 93, Education and Inspections Act 2006 in respect of teachers and authorised staff);
- consider whether a complex abuse investigation is applicable;
- plan enquiries if needed, allocate tasks and set timescales;
- decide what information can be shared, with whom and when.

The strategy meeting/discussion should also:

- ensure that arrangements are made to protect the child/ren involved and any other child/ren affected, including taking emergency action where needed;
- consider what support should be provided to all children who may be affected;
- consider what support should be provided to the member of staff and others who may be affected and how they will be kept up to date with the progress of the investigation;
- ensure that investigations are sufficiently independent;

- make recommendations where appropriate regarding suspension, or alternatives to suspension;
- identify a lead contact manager within the Academy;
- agree protocols for reviewing investigations and monitoring progress by the LADO, having regard to the target timescales;
- consider issues for the attention of the Executive Group (e.g. media interest, resource implications);
- consider reports for consideration of barring;
- consider risk assessments to inform the Academy's safeguarding arrangements;
- arrange dates for future strategy meetings/discussions.

11.11 A final strategy meeting/discussion should be held to ensure that all tasks have been completed, including any referrals to DBS if appropriate, and, where appropriate, agree an action plan for future practice based on lessons learnt.

11.12 The strategy meeting/discussion should take into account the following definitions when determining the outcome of allegation investigations:

1. **Substantiated:** there is sufficient evidence to prove the allegation;
2. **False:** there is sufficient evidence to disprove the allegation;
3. **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
4. **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;
5. **Unsubstantiated:** this is not the same as a false allegation. It means that there is insufficient evidence to either prove or disprove the allegation; the term therefore does not imply guilt or innocence.

11.13 An allegations' management special circumstances meeting will be called in the following circumstances:

- if there are any safeguarding allegations/concerns relating to a number of adults;
- where there are broader practice issues within an agency;
- where no specific child or young person was involved or where the identifying details of the child/young person are not known.

The meeting will be chaired and managed in the same way as a strategy meeting.

11.14 If an allegation or concern arises about a member of staff, outside of their work with children, and this may present a risk of harm to child/ren for whom the staff member is responsible, the general principles outlined in these procedures will apply.

11.15 The strategy meeting/discussion should decide whether the concern justifies:

- approaching the member of staff's employer for further information, in order to assess the level of risk of harm and/or;
- inviting the employer to a further strategy meeting/discussion about dealing with the possible risk of harm.

11.16 There could be circumstances where more than one local authority could be responsible for managing the allegation process. An example of this would be where the adult who is the subject of the allegation lives in one local authority and works in a different area. In these circumstances the primary responsibility for leading on the process to establish whether the adult is suitable to continue to work with children rests with the local authority in which the adult works. If the situation suggests that a

different local authority should manage the process, this can only be undertaken if there is agreement between LADOs. If the adult works or volunteers in more than one local authority area then the LADO from each authority will liaise to agree which area has the lead responsibility for the process.

11.17 In some cases, an allegation of abuse against someone closely associated with the member of staff (e.g. partner, member of the family or other household member) may present a risk of harm to child/ren for whom the member of staff is responsible. In these circumstances, a strategy meeting/discussion should be convened to consider:

- the ability and/or willingness of the member of staff to adequately protect the child/ren;
- whether measures need to be put in place to ensure their protection;
- whether the role of the member of staff is compromised.

## **12 Disciplinary Process**

12.1 The LADO and the Principal should discuss whether disciplinary action is appropriate in all cases where:

- it is clear at the outset or decided at a strategy meeting/discussion that a police investigation or Children's Social Care enquiry is not necessary; or
- the Academy or LADO is informed by the police or Crown Prosecution Service (CPS) that a criminal investigation and any subsequent trial is complete, or that an investigation is to be closed without charge, or a prosecution is discontinued.

12.2 The discussion should consider any potential misconduct or gross misconduct on the part of the member of staff, and take into account:

- information provided by the police and/ or Children's Social Care;
- the result of any investigation or trial;
- the different standards of proof in disciplinary and criminal proceedings.

12.3 In the case of supply, contract and volunteer workers, normal disciplinary procedures may not apply. In these circumstances, the LADO and the Principal should act jointly with the providing agency, if any, in deciding whether to continue to use the person's services, or provide future work with children, and if not, whether to make a report for considering of barring or other action.

12.4 If formal disciplinary action is not required, the Academy should institute appropriate action within 3 working days. If a disciplinary hearing is required, and further investigation is not required, it should be held within 15 working days.

12.5 If further disciplinary investigation is needed to decide upon disciplinary action, the Academy and the LADO should discuss whether the Academy has appropriate resources or whether the Academy should commission an independent investigation because of the nature and/or complexity of the case and in order to ensure objectivity. The investigation should not be conducted by a relative or friend of the member of staff.

12.6 The aim of an investigation is to obtain, as far as possible, a fair, balanced and accurate record in order to consider the appropriateness of disciplinary action and/or the individual's suitability to work with children. Its purpose is not to prove or disprove the allegation.

12.7 If at any stage, new information emerges that requires a child protection referral, the investigation should be held in abeyance and only resumed if agreed with the respective Children's Social Care and the police. Consideration should again be given to whether suspension is appropriate in light of the new information.

- 12.8 The investigating officer should aim to provide a report within 10 working days.
- 12.9 On receipt of the report, the Academy should decide, within 2 working days, whether a disciplinary hearing is needed. If a hearing is required, it should be held within 15 working days.
- 12.10 Wherever possible, police and the respective Children's Social Care should, during the course of their investigations and enquiries, obtain consent to provide the Academy and/or Ofsted with statements and evidence for disciplinary purposes.
- 12.11 If the police and CPS decide not to charge, or decide to administer a caution, or the person is acquitted, the police should pass all relevant information to the Academy without delay.
- 12.12 If the person is convicted, the police should inform the Academy and the LADO straight away so that appropriate can be taken.

### **13. Record Keeping and Monitoring Progress**

- 13.1 The Academy should keep a clear and comprehensive summary of the case record on a person's confidential personnel file and give a copy to the member of staff. The record should include details of how the allegation was followed up and resolved, the decisions reached and the action taken. It should be kept at least until the person reaches normal retirement age or for 10 years if longer.
- 13.2 The purpose of the record is to enable accurate information to be given in response to any future request for a reference if the person has moved on. It will provide clarification where a future DBS request reveals non convicted information, and will help to prevent unnecessary reinvestigation if an allegation resurfaces after a period of time. In this sense it may serve as a protector to the individual themselves, as well as in cases where substantiated allegations need to be known about to safeguard future children.
- 13.3 Details of allegations that are found to be malicious should be removed from personnel records. See Keeping Children Safe in Education: Statutory Guidance for Schools and Colleges, DfE April 2015.
- 13.4 The local authority will have in place recording mechanisms that meet the legislation requirements of those cases that do not meet the threshold and are considered consultations.
- 13.5 The LADO should monitor and record the progress of each case, either fortnightly or monthly depending on its complexity. This could be by way of strategy meetings/discussions, getting an update from case notes, initial evaluations or direct liaison with the police, Children's Social Care or the Academy, as appropriate. Where the targeted timescales cannot be met, the LADO should record the reasons.
- 13.6 The LADO should keep comprehensive records in order to ensure that each case is being dealt with expeditiously and there are no undue delays. The records will also assist the LSCB to monitor and evaluate the effectiveness of the procedures for managing allegations and provide statistical information to the Department for Education (DfE) as required.
- 13.7 If a police investigation is to be conducted, the police should set a date for reviewing its progress and consulting the CPS about continuing or closing the investigation or charging the individual. Wherever possible, this should be no later than 4 weeks after the strategy meeting/discussion or initial evaluation. Dates for further reviews should also be agreed, either fortnightly or monthly depending on the complexity of the investigation.

## **14 Unsubstantiated and False Allegations**

- 14.1 Where it is concluded that there is insufficient evidence to substantiate an allegation, the minutes of the strategy meeting will be provided to the Academy and that these conclude matters. There may still be actions for the Academy to take, for example, training and supervision issues. There may still potentially be suitability to work with children issues arising for the Academy to consider if there is concerning information about the allegations but difficulties with evidence.
- 14.2 False allegations are rare and may be a strong indicator of abuse elsewhere which requires further exploitation. If an allegation is demonstrably false, the employer, in consultation with the LADO, should refer the matter to Children's Social Care to determine whether the child is in need of services, or might have been abused by someone else.
- 14.3 If it is established that an allegation has been invented, the Principal should decide if disciplinary action is to be taken against the student 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 student.

## **15 Substantiated Allegations and Referral to the DBS**

- 15.1 The Disclosure and Barring Service (DBS) was established under the Protection of Freedoms Act 2012 and merges the functions previously carried out by the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA). The relevant legislation is set out in the Protection of Freedoms Act 2012.
- 15.2 If an allegation is substantiated and the person is dismissed or the Academy ceases to use the person's service or the person resigns or otherwise ceases to provide his/her services, the LADO should discuss with the Academy whether a referral should be made to the DBS. It is the responsibility of the Academy to make the referral. However, there may be rare occasions when the LADO may need to consider doing this.
- 15.3 If a referral is to be made, it should be submitted within one month of the allegation being substantiated.
- 15.4 If a person being referred to the DBS is a teacher in England they should also be referred to the National College for Teaching and Leadership.

## **16 Learning Lessons**

- 16.1 The Academy and the LADO should review the circumstances of the case to determine whether there are any improvements to be made to the Academy's procedures or practices.

## **17 Procedures in Specific Organisations**

- 17.1 It is recognised that many organisations will have their own procedures in place, some of which may need to take into account particular regulations and guidance (e.g. schools). Where organisations do have specific procedures, they should be compatible with these procedures and additionally provide contact details for:
- the Designated Senior Officer to whom all allegations should be reported;
  - the person to whom all allegations should be reported in the absence of the Designated Senior Officer or where that person is the subject of the allegation;
  - the LADO.

## **18 Other associated policies**

- 18.1 This policy is associated with the following:
- i. Staff Disciplinary Procedure
  - i. Acceptable Use of ICT (including all digital devices) Policy
  - ii. Whistle Blowing Procedure
  - iii. Child Protection Policy

## **19 Monitoring, Evaluation and Review**

- 19.1 The policy will be promoted and published throughout the Academy.
- 19.2 The Governing Body will review the policy within one year and assess its implementation and effectiveness.

Reviewed June 2015