

Dealing with Allegations Against Adults In School Policy & Guidance

Designated Teacher: Director of Human Resources (HR)
Reviewed by: Governors Policy Committee
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Underlying Principles

- 1.1 When an allegation is made against a member of staff, governor, visitor or volunteer, set procedures must be followed. The GORSE Academies Trust (TGAT) will follow the procedures as outlined in this policy statement in line with DfE Keeping Children Safe in Education September 2018 and TGAT's Disciplinary Policy and Procedure.
- 1.2 It is rare for a child to make an entirely false or malicious allegation, although misunderstandings and misinterpretations of events can and do happen. We recognise that some adults do pose a serious risk to children and we must act on every allegation. Staff who are the subject of an allegation have the right to have their case dealt with fairly, quickly and consistently and to be kept informed of its progress. Suspension is not mandatory, nor is it automatic but, in some cases, staff may be suspended where this is deemed to be the best way to ensure that children are protected. The Chief Executive Officer/Executive Principal or the Chair or Governors are the only bodies who can agree a suspension of a member of staff of TGAT in conjunction with the Director of HR, in line with the Disciplinary Policy and Procedure.
- 1.3 This guidance is about managing cases of allegations that might indicate a person would pose a risk of harm if they continue to have regular or close contact with children in their present position, or in any capacity. It should be used in respect of all cases in which it is alleged that an adult in any individual establishment that provides education for children/young people 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 would pose a risk of harm if they work regularly or closely with children in any establishment regardless of whether the Trust establishment is where the alleged abuse took place
- 1.4 Allegations against a member of staff who is no longer employed by the Trust or an adult who is not an employee of the Trust should be referred to the police.
- 1.5 TGAT has a duty of care to its employees. We will provide effective support for anyone facing an allegation and provide the employee with a named contact if they are suspended.
- 1.6 It is essential that any allegation of abuse made against a member of staff or volunteer in a Trust establishment is dealt with very quickly, in a fair and consistent way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation.

2 Key Points

- 2.1 Allegations against staff should be reported immediately to the Principal. Allegations against the Principal should be reported to the Executive Principal. Allegations against the Executive Principal should be reported to the Chief Executive Officer. Allegations against

the Chief Executive Officer should be reported to the Director of HR and Chair of TGAT Board. Allegations against non-employees should be reported to the Designated Safeguarding Lead who will inform the Principal and follow the procedure set out in the TGAT Safeguarding and Child Protection Policy.

- 2.2 In response to an allegation all other options should be considered before suspending a member of staff: suspension should not be the default option. An individual should be suspended only if there is no reasonable alternative. If suspension is deemed appropriate, the reasons and justification should be agreed by the Chief Executive Officer, Executive Principal or Principal and recorded by the Director of HR and the individual notified of the reasons.
- 2.3 Allegations that are found to be malicious should be removed from personnel records and any that are unsubstantiated, are unfounded or malicious should not be referred to in employer references.
- 2.4 Students that are found to have made malicious allegations are likely to have breached Trust establishment behaviour policies. The individual Trust establishment should therefore consider whether to apply an appropriate sanction in line with the Positive Discipline Policy (as well as referral to the police if there are grounds for believing a criminal offence may have been committed) or be offered support where appropriate.

3 Initial considerations and procedure to be applied

- 3.1 The procedures for dealing with allegations need to be applied with common sense and judgement. Many cases may well either not meet the criteria set out above, or may do so without warranting consideration of either a police investigation or enquiries by local authority Children's Social Work Services (CSWS). In these cases, local arrangements should be followed to resolve cases without delay. The Trust's Disciplinary Policy also details the procedure to be followed.
- 3.2 There may be concerns that do not meet the above thresholds (see 1.3) which may be referred to as "low level". A low-level concern is any concern – no matter how small, and even if no more than causing a sense of unease or a 'nagging doubt' - that an adult working in or on behalf of the Trust may have acted in a way that:
 - is inconsistent with the staff code of conduct, including inappropriate conduct outside of work and
 - does not meet the allegations threshold or is otherwise not considered serious enough to consider a referral to the LADO

Examples of such behaviour could include, but are not limited to:

- being over friendly with children or young people
- having favourites
- taking photographs of children or young people on their mobile phone
- engaging with a child on a one-to-one basis in a secluded area or behind a closed door

- using inappropriate sexualised, intimidating or offensive language

Anyone who has concerns regarding a staff member should report this to the Principal who will record details of the concern, the context in which the concern arose and action taken. The person reporting their concerns to the Principal can remain anonymous should they wish to. The Principal will keep records of concern in order to ensure patterns of behaviour are monitored. Should a number of low level concerns be raised about one member of staff, this is likely to fall into the threshold requiring further investigation and possible referral to the LADO. All records of low level concerns will be maintained until at least the staff member leaves the Trust's employment. These concerns will not be referred to in references supplied unless they meet the higher level of threshold.

- 3.3 Some rare allegations will be so serious they require immediate intervention by the CSWS and/or police. The LADO should be informed of all allegations that come to the Trust's attention and appear to meet the criteria so they can consult police and CSWS as appropriate.
- 3.4 In the first instance, the Chief Executive Officer, Executive Principal, Principal or chair of governors, in discussion with the Director of HR, should immediately refer the allegation to the LADO. The purpose of an initial referral is for the LADO and the relevant person to consider the nature, content and context of the allegation and agree a course of action. The LADO may ask for relevant additional information, such as previous history, whether the child or their family have made similar allegations previously and the individual's current contact with children. There may be situations when it is deemed appropriate 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 possible criminal offence. Where there is no such evidence, the allegations should be discussed with the LADO in order to help determine whether police involvement is necessary.
- 3.5 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 relevant person, Director of HR and the LADO, and agreement reached on what information should be put in writing to the individual concerned and by whom. The relevant person/Director of HR should then consider with the LADO what action should follow both in respect of the individual and those who made the initial allegation. An agreement will be reached if the Trust's Disciplinary Policy is to be applied.
- 3.6 The relevant person should inform the accused person about the allegation as soon as possible after consulting the LADO. Where a strategy discussion is needed, or police or CSWS need to be involved, the member of staff should not be given detailed information until those agencies have been consulted, and have agreed what information can be disclosed to the accused.
- 3.7 If there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion should be convened. If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take into account that

teachers and other staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour.

- 3.8 Where it is clear that an investigation by the police or CSWS is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the LADO should discuss the next steps with the relevant person. In those circumstances, the options open to the Trust depend on the nature and circumstances of the allegation and the evidence and information available. This will range from taking no further action to using the Disciplinary Policy to investigate which could lead to a dismissal or a decision not to use the person's services in future.

4 Supporting those involved

- 4.1 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.
- 4.2 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 appropriate.
- 4.3 The Director of HR or Principal 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.
- 4.4 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.
- 4.5 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 CSWS need to be involved, the case manager should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers.
- 4.6 Parents or carers should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, and in the case of a disciplinary process, informed that appropriate action has been taken. 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, where necessary, be told the outcome in confidence.
- 4.7 Parents and carers should also be made aware of the prohibition on reporting or publishing allegations about teachers in section 141F of the Education Act 2002 (also referred to as S.13 Education Act 2011). If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice.

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

5 Outcomes of allegations

5.1 The following definitions would be used when determining the outcome of allegation investigations following the Trust's Disciplinary Policy and Procedure:

- **Substantiated:** there is sufficient evidence to prove the allegation
- **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive
- **False:** there is sufficient evidence to disprove the allegation
- **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence

6 Allegations that are substantiated

6.1 TGAT has a legal duty to refer to the Disclosure and Barring Service (DBS) anyone who has harmed, or poses a risk of harm, to a child, or if there is reason to believe the member of staff has committed one of a number of listed offences, and who has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left.

6.2 The DBS will consider whether to bar the person. Referrals should be made as soon as possible after the resignation or removal of the individual. The Director of HR will make this referral to the DBS.

6.3 For further details on managing the situation and exit arrangements refer to DfE guidance:

- **Keeping Children Safe in Education**
- **DfE Statutory guidance**

Contact details for the advice and support

Claire Ford or Carolyn Hargreaves - Local Authority Designated Officer Contacts for Child Protection(Leeds): Tel: 0113 3789687

Advice can also be sought from Raminder Aujla – Team Manager Education Safeguarding Team Tel: 0113 3789637

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