



The Charter Schools Educational Trust

# **Allegations (of abuse) against staff and volunteers policy**



## **Allegations (of abuse) against Staff and Volunteers**

### **The Charter Schools Educational Trust**

*Transforming lives through the power of inclusive education.*

### **Scope**

This policy provides details of the procedures to be followed in circumstances where an allegation has been made that a member of staff or volunteer (including Governors and Trustees) working at a Trust school has abused a pupil, this includes those who work with pupils on a temporary, occasional or supply basis.

This policy should be read in conjunction with the Trust's disciplinary policy, which sets out the procedures to be followed in the event that an internal investigation of a member of staff or volunteer is required. In circumstances where the involvement of external agencies is required for the purposes of investigation, advice will be sought from the Local Authority's Designated Officer (LADO).

This policy should also be read alongside the Trust's policy regarding whistleblowing, which includes additional procedures relating to allegations against staff relating to matters of professional misconduct not involving abuse towards pupils.

### **Context**

The board of The Charter Schools Educational Trust recognises its responsibility to safeguard and protect the welfare of children and young people in its schools in accordance with its own moral purpose, with its statutory responsibility under section 175 of the Education Act 2002 and, where appropriate, with its obligations under the Children Act 2004.

Members of staff and volunteers working on Trust business should at all times understand and demonstrate acceptable standards of behaviour towards young people and in the company of young people. Such matters are addressed within the Trust schools' safeguarding policies and are included in the schools' induction and training programmes.

Volunteers can also have contact with young people as part of their voluntary role, though the extent of this will vary significantly.

Procedures will be conducted in accordance with the statutory guidance from the DfE, [www.gov.uk/government/publications/keeping-children-safe-in-education--2](http://www.gov.uk/government/publications/keeping-children-safe-in-education--2), the guidance provided by the Southwark Safeguarding Children Board, and with regard to the appropriate legislation.

### **Reporting an allegation, safeguarding responsibilities and general principles**

An allegation should be reported immediately to the school's designated child protection officer, (Susan Spence or Simon Williams for The Charter School North Dulwich, Rebecca Hardy for The Charter School East

Dulwich), the Head Teacher or, where the Head Teacher is the subject of the allegation, the Chair of Governors. An allegation may relate to a concern 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 towards a child or children in a way that indicates he or she would pose a risk of harm to children.

Where an allegation of abuse towards a pupil has been made against a member of staff or volunteer, the Local Governing Body must recognise the requirement for the sharing of information in accordance with DfE guidance, because the need to promote the welfare and protect the safety of the pupils is paramount. This applies whether the allegation relates to an incident in school or out of school.

The Southwark Safeguarding Children Board holds statutory functions which include developing local safeguarding policy and procedures, scrutinising local arrangements and the investigation of allegations concerning persons who work with children.

Should an allegation be made against a member of staff or volunteer, the school should immediately notify Southwark Local Authority Designated Officer (LADO) for child protection. The allegation must be reported in accordance with the procedures identified below and the initial contact with the LADO will be made by the school's case officer normally the Child Protection Officer, the Head Teacher or the Chair of Governors.

The LADO will provide oversight of the individual case, advising and providing guidance to the school in specific matters, including liaising with the police where necessary. The LADO should be informed within one working day of all allegations which have come to the school's attention or which have been made directly to the police, and which relate to the criteria above.

Allegations against a former member of staff or former volunteer or historical allegations of abuse should be referred to the police.

### **Determining the outcome of an investigation into an allegation**

In determining the outcome of an investigation into an allegation, the following definitions will be used in accordance with DfE guidance:

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

Full details of a substantiated allegation, how it was followed up and resolved, and a summary of the action taken and decisions reached will be retained on the confidential personnel file of the member of staff, and s/he will be provided with a copy.

## **The procedure**

The Trust takes seriously its responsibilities of duty of care towards its pupils, its employees and its volunteers. The process will be managed in such a way as to minimise the stress inherent in such circumstances, and appropriate levels of support will be discussed and agreed with any member of staff or volunteer who is the subject of an allegation, and her/his representative where applicable.

It is essential that any allegation of abuse made against a teacher or other member of staff or volunteer in a school is dealt with very quickly, in a fair and consistent way, and provides effective protection for the child and at the same time supports the person who is the subject of the allegation.

In the event that an allegation against a member of staff or volunteer is made, priority will be given to ensuring that a resolution to the allegation is reached as soon as possible. The procedures will be applied in a fair and consistent manner and in such a way as to protect the pupil.

The timeframe for bringing the matter to a conclusion will depend upon the nature, seriousness and complexity of the allegation, however the school will aim to reach a resolution within one month where this is possible.

## **Initial considerations**

The procedures adopted in relation to allegations made will be applied using common sense, reasonableness and judgement. It is recognised by the DfE that many cases 'may not meet the criteria (set out above), or may do so without warranting consideration of either a police investigation or enquiries by local authority (LA) children's social care services. Under such circumstances, the Local Governing Body will adopt the appropriate procedures set out within the Trust's disciplinary policy in order to bring the matter to a conclusion as soon as possible.

The following steps must be followed in all cases where there is a potential risk to a child.

The school will immediately appoint a case officer, normally the child protection officer, to handle matters in connection with the investigation into the allegation. There will be relevant consideration as to who should carry out the investigation and this may, on occasion, necessitate the appointment of an external investigator.

The LADO will be notified by the case officer, the Head Teacher or the Chair of Governors within one working day.

Following the initial contact with the LADO, the case officer will liaise with the LADO regarding the nature and context of the allegation in order to agree on the appropriate course of action and provide any requested written information. The LADO may seek additional information from the LA regarding previous history, for example whether a child or her/his family have made similar allegations and the individual's current contact with children in other roles. During such a process, the LADO may recommend the involvement of the police. A representative of the school (normally the Head Teacher) should contact the member of staff or volunteer accused as soon as reasonably practicable following consultation with the LADO.

In response to an allegation, the Head Teacher will consider all reasonable alternatives before taking any decision to suspend a member of staff or volunteer. Reasonable alternatives may include the following:

- Redeployment within the school so that the member of staff or volunteer does not have direct contact with the child or children concerned.
- Providing an assistant to be present when the member of staff or volunteer has contact with children.

- Redeploying to alternative work in the school so the member of staff or volunteer 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 clear this is not a punishment and parents have been consulted.
- Temporarily redeploying the member of staff to another role in a different location.

Any such decision will be based on assessment of risk and of the school's ability to accommodate an alternative arrangement.

Action will be taken in response to the allegation with due regard to the procedures identified within the school's disciplinary policy. The member of staff or volunteer against which the allegation is made will be provided with details in writing of the action taken, including suspension if deemed appropriate, and setting out the reasons and justification for the decision. The individual subject to an allegation of abuse is advised to contact her/his trade union representative, if they have one, or a colleague who can provide support.

Where the allegation is against a Governor or Trustee (whether that Governor or Trustee is a volunteer or member of staff) a decision to suspend that individual's role as Governor or Trustee can only be taken by the Trust Board in accordance with the Articles of Association.

### **No case to answer**

The process of sharing information and its evaluation may lead the school, in consultation with the LADO, to the decision that there is no case to answer and therefore no further action will be taken against the member of staff or volunteer facing the allegation or concern. In such circumstances, the decision and associated reasons will be recorded by the case officer and the LADO, who will agree on the content of a letter to the member of staff or volunteer setting out the relevant details. Details of the action to be taken with regard to the member of staff, for example appropriate support in respect of the individual/s who made the initial allegation will also be discussed and agreed in accordance with the confidentiality provisions referred to below.

Where it is clear an allegation is unfounded or malicious, the school will aim to resolve the matter within one week.

### **The investigation process**

Where the process of information sharing as specified above leads to a conclusion that there is a case to answer, an investigation process will be required.

The case officer will inform the member of staff or volunteer regarding the allegations against her/him as soon as possible and following consultation with the LADO.

The member of staff or volunteer will be provided with as much information as possible at that time. Advice should be sought from the LADO on what information the school is permitted to disclose to the member of staff or volunteer, based on the agreement of any other agencies involved. Individuals should be given an explanation of the likely course of action, unless there is an objection by the children's social care services or the police.

If the allegation is 'not demonstrably false or unfounded', and the school has cause to suspect a child is suffering or is likely to suffer significant harm, the case officer, in consultation with the LADO will convene a 'strategy discussion' involving the appropriate agencies. Where an allegation concerns physical contact, the agencies will take into account the staff member's entitlement to use reasonable force to control or restrain pupils in certain circumstances.

Where it is clear that an investigation by the police or the children's social care services is unnecessary, or the strategy discussion (see above) agrees that is the case, the case officer will agree with the LADO the appropriate way forward. In most cases this will involve the application of the investigation process within the school's disciplinary procedures (please refer to the school's disciplinary policy for further details).

### **Keeping the member of staff informed**

Employers have a duty of care to their employees or volunteers. They should act to manage and minimise the stress inherent in the allegations process. Support for the individual is key to fulfilling this duty.

During the investigation, a process will be adopted to ensure that the member of staff or volunteer who is the subject of the allegations is kept informed. In cases of suspension, this will include the provision of a named contact at the school, appointed by the case officer, in order to facilitate communication throughout the investigation. Contact with the suspended employee or volunteer will take place according to the timescales to be set out at the start of the investigation and this must include relevant updates on work-related issues.

Similar arrangements will be made by the case officer to appoint a contact to liaise with a member of staff or volunteer who has remained in the workplace during the investigation.

The named contact will keep the member of staff or volunteer informed of progress in relation to the case and will monitor the support arrangements in place and recommend additional or alternative support as necessary.

The member of staff or volunteer who is the subject of the allegations will not be prevented from having social contact with colleagues and friends, unless there is evidence to suggest that such contact may be prejudicial to the investigation process.

Support will be offered by way of occupational health or employee assistance schemes as appropriate.

### **Supporting parents and the child affected**

Parents or carers of a child or children involved will be notified regarding the allegation as soon as possible where they are not already aware of the matter. However, due regard is given to the need for a strategy discussion as appropriate (please see above), or the agreed involvement of other agencies, because the level of disclosure of details must be in accordance with DfE statutory guidance.

Parents or carers will be kept informed, through an agreed named contact, regarding the progress of the investigation, any relevant decisions made regarding the process and, in confidence, the outcome where there is no criminal prosecution. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed and careful consideration must be given to the relevant provisions of the Human Rights Act 1998 and the Data Protection Act 1998.

The named contact will make parents and carers aware of the prohibition on reporting or publishing allegations about teachers in section 141F of the Education Act 2002. Should parents or carers wish to apply to the court for the removal of reporting restrictions, they will be advised to obtain legal advice.

In circumstances where it is believed that a child may have suffered significant harm, or there may be a criminal prosecution, the LADO will liaise with the appropriate agencies to consider what support the child or children involved may need. This need will also be highlighted to the LADO by the school's case officer.

### **Malicious allegations**

Details of allegations that are investigated and found to be malicious or unsubstantiated will be removed from personnel records and no reference will be made to the matter in employer references.

Pupils who are found to have made malicious allegations will be considered in breach of the school's behaviour policy. This will be treated as a serious matter and the appropriate sanctions will be applied.

### **Confidentiality**

The school will make every effort to maintain confidentiality and to guard against unwanted publicity during an investigation or while an allegation is considered. Legislation regarding reporting restrictions will be adhered to at all times, in particular the reporting restrictions under the Education Act 2011 preventing the publication of material that may lead to the accused member of staff or volunteer being identified prior to being charged with an offence. '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'. In addition, to maintain confidentiality, identifiable information should also be excluded from publicly available minutes of the Local Governing Body or Trust.

Such reporting restrictions cease to apply if:

(a) 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;

(b) or if a judge lifts restrictions in response to a request to do so.

The case officer will take advice from the LADO and the police in order to agree who needs to be informed and what information can be shared. Advice will also be sought on appropriate sharing of information with the wider community in order to reduce speculation and the management of any press interest, breaches of confidentiality or gossip.

### **Resignation during the investigation**

It is important for all parties that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children. Therefore, the school will continue with an investigation and make every reasonable effort to reach a conclusion, even in circumstances where the employee resigns. The individual subject of the allegation will be given every opportunity to remain engaged in the investigation, but refusal to cooperate will not be a reason for the investigation to cease.

### **Settlement agreements**

Settlement agreements will not be used in circumstances where an allegation relates to abuse of a pupil. Such an agreement will not prevent a thorough police investigation where that is appropriate and it cannot override the Local Governing Body's statutory duty to make a referral to the Disclosure and Barring Service (DBS) where this is required.

### **Employer references**

In the case where an allegation was found to be substantiated it will be included in any reference provided.

Should an allegation or allegations prove false, unsubstantiated, unfounded or malicious it/they will not be referred to in employer references. The same will apply to a history of repeated concerns or allegations which have all been found to be unsubstantiated, malicious etc.

### **Allegations leading to a criminal investigation or a prosecution**

The police or the Crown Prosecution Service (CPS) should inform the school and the LADO immediately when a criminal investigation and any subsequent trial is complete, if an investigation is closed without charge, or if there will be no prosecution after the person has been charged. In such circumstances, the case officer will discuss with the LADO whether any further action, including disciplinary action, is required and agreement will be reached as to how to proceed. Information received by the police and/or children's social care services will be relied upon in order to inform the decision.

### **Action on conclusion of a case**

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.

Should the allegation be substantiated and the employee is dismissed, or s/he resigns, the LADO, the case officer and the Trust HR Director will agree whether to refer the case to the DBS for consideration of inclusion on the barred lists, or to refer the matter to the Teaching Agency.

Professional misconduct cases should be referred to the relevant regulatory body and the referral will be made as soon as possible after the removal, or the resignation, of the member of staff involved.

In any case where an allegation of abuse is substantiated, regardless of the sanction imposed on the employee or volunteer the Trust's HR Director will conduct a review of circumstances of the case and relevant Trust and school policies, to consider whether any changes to policies, procedures or practice should be recommended in order to reduce the chances of the abuse occurring in the future or in order to ensure the abuse is uncovered as swiftly as possible.

### **Returning to work**

Where a member of staff or volunteer has been suspended and the conclusion of the investigation is that s/he can return to work or resume voluntary duties, the case officer, in consultation with the Head Teacher, will consider how best to facilitate this. A meeting will be arranged with the member of staff or volunteer concerned to agree how best this can be achieved and to understand what support will assist her/him in returning to the workplace following this stressful experience.

## **NOTES FOR THE TRUST & LOCAL GOVERNING BODY**

### **General**

Any instance of a pupil being abused by a member of staff or volunteer is particularly serious. Equally, should an innocent person be subject to investigation, possible suspension and/or the threat of arrest, this is an extremely stressful and serious ordeal, which may lead to long term damage to the person's health and career. Any allegation must be fair and dealt with as quickly as possible.

### **Resignation during investigation (see relevant section of policy)**

It may be difficult to reach a conclusion in circumstances where a member of staff resigns during an investigation, and it may not be possible to apply disciplinary sanctions if her/his period of notice expires before completion of the process. Nevertheless, it is important to reach and record a conclusion wherever possible.

### **Determining the outcome of an investigation into an allegation (final paragraph)**

The purpose of the record is to enable the provision of accurate information in response to any future request for an employer's reference. It may also be required where future DBS disclosures reveal information from the police about an allegation that did not result in a criminal conviction and it may help to prevent unnecessary re-investigation should a future allegation be made. The record should be retained at least until the individual has reached normal retirement age or for a period of 10 years from the date of the allegation if this is longer.

### **Suspension**

Children's social care services or the police cannot require the Trust to suspend a member of staff or a volunteer, although the school should give appropriate consideration to their advice. The power to suspend is vested in the Trust but may be delegated to the Local Governing Body. Police involvement does not make it mandatory to suspend a member of staff and decisions should be taken on a case-by-case basis and with due regard to assessment of risk.

### **Disclosure and Barring Service (DBS)**

Reporting a matter to the DBS does not mean the person will be automatically barred from working with children and vulnerable adults. Responsibility for reporting an individual to the DBS extends to a situation where the person has chosen to cease their employment in circumstances where they would have been removed had they not done so.

An organisation is breaking the law if it knowingly employs someone who is barred.

### **Returning to work (see relevant section of policy)**

Depending on the individual's circumstances, a phased return to work or the provision of a mentor to provide support may be helpful. The school should also consider any contact the member of staff may have with the child or children who made the allegation and how this can be best managed.

### **Monitoring**

At the conclusion of an investigation process, the school should take the opportunity to review the circumstances and the process in order to establish whether improvements could be made to the procedures to help prevent similar events in the future, and to ensure future procedures are fit for purpose.

### **Unfounded or malicious allegations**

Staff and volunteers can be vulnerable to allegations of abuse and it is acknowledged that the allegations may be untrue. However, schools should remain aware that children and young people sometimes make allegations to draw attention to problems experienced elsewhere in their lives. If an allegation is determined to be unfounded or malicious, the LADO must refer the matter as appropriate in order to determine whether

the child concerned is in need of services, or whether they have been abused by someone else. In such circumstances, the school is advised to discuss this matter with the LADO to ensure the appropriate action is taken.