



# ST WENN SCHOOL

## MANAGING ALLEGATIONS AGAINST STAFF POLICY

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Headteacher: Mrs Sally Berry



## Introduction

Children can be vulnerable to harm and abuse in many settings including those where staff occupy positions of trust in relation to children. All school staff have a duty to safeguard pupils and create a safe learning environment so it is crucial that there is a robust process in place for dealing with any allegations of harm or abuse by a staff member or volunteer against a child.

As employers, schools also have a duty of care to their staff and must ensure that members of staff against whom an allegation has been made are treated fairly and are provided with effective support. It is essential that any allegation of abuse made against a person who works with children and young people, including those who work in a voluntary capacity, is dealt with fairly, quickly, and consistently, in a way that provides effective protection for the child, and supports the person who is the subject of the allegation.

## What is an allegation?

An allegation is information or a concern which suggests that an adult working with children and 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 he or she would pose a risk of harm if they worked regularly or closely with children. Behaved towards a child or children in a way that indicates they may pose a risk of harm to children.

If anyone sees / hears / reports / suspects something that fits into one of the 3 categories above there is a statutory duty to report this. This policy sets out the procedures to be followed by head teachers and governors when dealing with allegations in respect of a member of staff or volunteer.

## Legal framework

All schools must have procedures in place to deal with any allegations made against staff. The framework for managing allegations is set out in DfE statutory guidance Working Together to Safeguard Children 2018 and Keeping Children Safe in Education 2019

## Principles

- The welfare of pupils is paramount and all staff members and volunteers have a duty to safeguard and promote pupil's welfare. The pupil's welfare must be considered throughout any investigation and appropriate services provided where needed;
- Allegations should be dealt with fairly and quickly and should be investigated as a priority to avoid delay. The time taken to investigate and resolve individual cases depends on the nature and complexity of each case but it is expected that the majority of cases should generally be resolved within 1 month;
- Information should be shared in a timely way but only for the purposes of safeguarding and promoting the welfare of children;
- All responses should be fair, transparent and balanced and should ensure the safety of children whilst supporting those adults who are the subject of allegations.

## Roles



### **Responsible person in school**

Every school must have a named person who is responsible for the management of allegations against staff and to whom allegations and concerns should be reported in the first instance. At St Wenn School this is the Head Teacher, or the Designated Safeguarding Lead (DSL) if she is not available. If the allegation is regarding the Head Teacher then the Chair of Governors will need to be informed, as will Human Resources at Cornwall County.

### **Designated Officer (LADO)**

All Local Authority areas have to have a named LADO who is responsible for the management and oversight of individual cases. The DO provides advice and guidance to all of the agencies and services, in addition to liaising with the police and other agencies, and monitoring the progress of cases to ensure that all matters are dealt with as quickly as possible, consistent with a thorough and fair process.

In Cornwall, the LADO is located within Children and Families Services and their contact details are displayed in the staff room.

### **Supply teachers**

**Note:** Where an allegation is made against a supply teacher, the Headteacher – Sally Berry - will immediately contact both the agency concerned and the LADO. The school will continue to support any investigation that is required.

## **Procedures**

### **Notification**

Allegations may arise following a complaint from a parent or pupil or through concerns raised by other staff members. Anyone dealing with allegations must report all concerns to the responsible person within the school immediately.

If an allegation is received staff should not investigate or ask leading questions if seeking clarification. They should not make assumptions or offer alternative explanations. Pupils should not be promised confidentiality. Information, however, must be shared with the responsible person in the school. A written note of the details of the allegation, including time, date, place, nature of the concern and any persons present must be agreed with the responsible person.

The responsible person must immediately notify the LADO of allegations made against members of staff. This is to allow the DO to consider what response is needed to ensure pupil safety. In some emergency situations, schools may have to take immediate action to protect pupils, but where possible this should be done following discussions with the LADO.

Procedures need to be applied with common sense and judgement. Some allegations are so serious as to require referral to Children and Families' Services and the police for investigation (following advice and guidance from the LADO). Others are less serious, and at first sight, may not seem to warrant consideration of a police investigation or enquiries by Children and Families' Services. However, it is important to ensure that apparently less serious allegations are seen to be followed up, and that they are examined objectively by someone independent of the school.

### **Initial considerations**

Initial discussions between the school and the LADO should look at all the available information about the incident or allegation, the staff member and the child involved (including details of any previous allegations made) and decide if the allegation is serious enough to be dealt with under this policy.

As an outcome of the discussion, the school and the LADO should agree what action to take under this policy, which may be one or more of the following:

- No further action;
- To hold an Allegation Against Professional Meeting (AAP);



- Referral to Children and Families Services for assessment and possible child protection investigation;
  - Referral to the police for a criminal investigation
- Allegations of Abuse against Staff Policy October 2019

If there is cause to suspect a child is suffering, or is likely to suffer, significant harm, a strategy discussion should be convened.

The LADO and school representative should also consider:

- If any further information is needed to assist the investigation;
- Whether any immediate action needs to be taken to protect pupils;
- When parents should be notified of the allegation (although in some cases this will be unavoidable, for example if the child requires medical treatment);
- How the child and their parents will be supported during the process;
- When the staff member should be notified of the allegation;
- Whether the member of staff should be suspended pending investigation (LADO would not be a decider as this is an HR matter);
- Whether any regulatory body needs to be informed of the allegation. Ofsted should be informed if the allegation is made against a member of staff in the Early Years Provision.

The member of staff should be informed of the allegation and given as much information as possible, unless there are good reasons not to. In cases where a criminal or child protection investigation is possible, the LADO should seek the advice of the police and children's social care regarding what information can be shared.

A written note of discussions and decisions should be agreed and the reasons for taking any particular course of action noted. This is particularly important in cases where no further action will be taken.

#### **Allegations against Staff and Volunteers (ASV) meeting**

If a decision is made for an ASV meeting to be convened the LADO will refer to the First Access and Screening Team Manager for the case to be allocated to a Social Worker (or to the allocated Social Worker if the child's case is already allocated within Children and Families Services).

The Allegations against Staff and Volunteers meeting has the following components:

1. Decide whether there should be a s47 enquiry and / or police investigation;
2. Consider whether any parallel disciplinary process can take place and agree protocols for sharing information;
3. Consider the current allegation in the context of any previous allegations or concerns;
4. Where appropriate, take account of any entitlement by staff to use reasonable force to control or restrain children



(e.g. <https://www.gov.uk/government/publications/use-of-reasonable-force-in-schools>);

5. Consider whether a complex abuse investigation is applicable
6. Plan enquiries if needed, allocate tasks and set timescales;
7. Decide what information can be shared, with whom and when.

It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations should be investigated as a priority to avoid any delay. The time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation, but these targets should be achieved in all but truly exceptional cases. The meeting will decide whether or not the pupil has or is likely to suffer harm and whether to instigate a child protection and/or criminal investigation. The meeting will also set out a plan for conducting enquiries and how this may affect any disciplinary action that the school may be planning. The meeting will decide what immediate action needs to be taken to ensure child safety during the course of investigations; this may include making a recommendation on suspending the member of staff however, this is a school decision and it is advisable seeking HR guidance and should be based on a clear risk assessment and be in accordance with the school's own policies on staff conduct.

#### **Disciplinary proceedings**

Whilst it is the school's decision whether or not to follow any disciplinary proceedings, the school should discuss any potential disciplinary proceedings with a member Cornwall county's HR team, taking into account information raised by child protection enquiries, criminal proceedings or the outcome of any trial. This discussion should also look at whether a referral should be made to the Disclosure and Barring Service.

If the staff member concerned is an agency worker or volunteer where disciplinary proceedings are not possible, this matter should be immediately reported to the relevant agency, and the school and the LADO should work with the employer or individual to resolve the matter.

#### **Referral to the Disclosure and Barring Service (DBS)**

There is a legal duty on employers to refer any individual to the DBS if it is thought that they pose a risk to children or have harmed a child. The DBS will then make a decision as to whether or not to bar the person from working with children in a regulated activity such as teaching.



As cases move towards conclusion and all information is available, the school and the LADO should discuss whether a referral needs to be made to the DBS. A referral must be made if the allegation is substantiated and the person has been dismissed from their post or has resigned prior to being dismissed.

### **Monitoring and oversight of cases**

The LADO will review all cases involving allegations against staff members and volunteers on a regular basis to ensure that cases are dealt with efficiently and within prescribed timescales.

The responsible police officer in the Child Abuse Investigation Team (CAIT) will review all cases in criminal proceedings that involve allegations against staff members and will pass on information to the school and the LADO regarding progress of investigations and prosecutions.

Once cases have been resolved, schools should review the events in order to identify any issues and decide whether school procedures or practices need to be updated or improved so that similar incidents can be prevented or responses improved in the future.

### **Allegations involving physical contact**

Head teachers and governors will be aware that for some teachers, for example music and PE teachers, physical contact with a pupil is unavoidable and necessary in order to teach the subject. Also, teachers can use reasonable force in order to control or restrain a pupil in specific circumstances.

These factors must be taken into account throughout the process. In particular, it must be demonstrated that any contact that has taken place is within the boundaries set out by local safe working practices and agreed procedures for the use of physical restraint known as Positive Handling. All schools must have a Code of Conduct for staff and it is important that staff are given clear guidance on acceptable behaviour and safe working practice in order to protect them from misplaced or malicious allegations.

### **Suspension**

Suspension should not be an automatic outcome of any allegation but used only where there is no alternative. Schools should be mindful that suspension will normally only be justified where there is a risk of significant harm to pupils, a police investigation is likely to be carried out, or the allegation is so serious it would normally warrant immediate dismissal if proved true. Even in these cases, schools should consider other ways of managing risk, such as arranging for the member of staff to have limited contact with pupils or ensuring they are constantly supervised.



Decisions on suspension should be discussed with the Cornwall county HR team and a view can be sought from the LADO but the final decision will rest with the school. All decisions on suspension should be reviewed as new information becomes available during investigation.

If suspension is agreed, the member of staff must be given written confirmation of the decision detailing the reasons and giving the name of the person at the school whom the member of staff can contact for support and information. Any member of staff who has been suspended should also be advised at this stage to make contact with their Trade Union / Professional Association.

### **Resignation**

Full investigations into allegations must continue even if the person involved resigns as it is important that a resolution or conclusion is reached. It is important to decide whether allegations are substantiated and what further action may have to be taken to safeguard children through referral to the Disclosure and Barring Service.

Schools must not use compromise agreements that allow a person to resign with a reference in return for not initiating disciplinary proceedings in cases where allegations of abuse of children are involved.

### **Unfounded or malicious allegations**

If an allegation is proved to be unfounded or malicious, the LADO may decide to refer the child to Children and Families' Services for assessment as a child in need. Malicious allegations made by pupils may also be dealt with under the school's behaviour policies if this is more appropriate.

### **Records and references**

All allegations made must be recorded on the individual's confidential personnel file, giving details of the nature of the allegation, actions taken and decisions reached. The exception to this is any allegation that is proved to be malicious; all references to these allegations should be removed from the personnel record.

The purpose of the record is to enable accurate information to be given in response to any future request for a reference and it will provide clarification in cases where future DBS disclosures reveal information about an allegation that did not result in a criminal conviction. Information should be kept on the personnel file until the person reaches normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

Allegations that have been unsubstantiated, unfounded or malicious should not be included in a reference.



### **Confidentiality and information sharing**

It is essential that confidentiality is maintained whilst any investigation is on-going and the Police will not make public any details of criminal investigations unless the person involved is charged.

At the initial discussion, the school representative and the LADO may wish to discuss what information will be shared with whom and what action will be taken to manage any possible breaches of confidentiality or press interest. From 1 October 2012 new reporting restrictions have been introduced preventing the publication of any material that may lead to the identification to the public at large of a teacher involved in the allegations process - until or unless that teacher is charged with an offence.

In general, information may be shared at the initial discussion and strategy meetings in order to gather as much information as possible to make an informed judgement on what action to take.

Consent must be obtained to share information with third parties, for example police statements or child protection investigations being passed on to schools for the purposes of disciplinary proceedings.

### **Support for those involved**

#### **Children and parents**

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 about it (unless to do so would put the child at further risk). The Head Teacher may consult with the LADO to agree how and by whom they will be informed.

Parents should also be kept informed about the progress of the case, and told the outcome, including the outcome of any disciplinary process. Timings for this will be agreed in the ASV meetings and with the LADO.

#### **Staff**

Schools have a duty to support staff members who are being investigated following an allegation in order to minimise stress. Staff should be informed as soon as possible about any allegation made and given all information available, subject to advice from the police and children's social care.

Staff should have a named person available to provide support and information, particularly if they have been suspended, and should be given advice on obtaining legal representation and counselling if needed. They should also be told about the process of any investigation and kept informed of the outcomes and progress of these.

Schools should also consider the support needs of any member of staff returning to work following suspension once the investigation has been completed.