

## Allegations of Abuse Against Academy Staff Policy

Policy Code:	HR24
Policy Start Date:	September 2017
Policy Review Date:	September 2020

Please read this policy in conjunction with the policies listed below:

- HR9 Positive Handling Policy
- HR12 Staff Disciplinary Procedure
- HR16 DBS Procedures Policy
- SW1 Intimate Care Policy
- SW4 Student Behaviour and Discipline Policy
- SW9 Parental Communication and Complaints Policy
  
- *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children (March 2015).*

## **1 Policy Statement**

1.1 This procedure applies to all employees of The Priory Federation of Academies Trust. It outlines how allegations against members of staff will be dealt with in accordance with the following legislation:

- a) The Children Act 1989
- b) Section 175 of the Education Act 2002 (local authorities, governing bodies of maintained schools and institutions in the further education sector).
- c) Section 157 of the Education Act 2002 and the Education (Independent School Standards) (England) Regulations 2010.
- d) Working Together to Safeguard Children: A Guide to inter agency working to safeguard and promote the welfare of children (March 2015)
- e) Keeping Children Safe in Education; Statutory Guidance for Schools and Colleges (September 2017)

## **2 Implementation, Roles and Responsibilities**

- 2.1 The Pay, Performance and HR Committee has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework. The Pay, Performance and HR Committee has delegated day-to-day responsibility for operating the policy and ensuring its maintenance to the Head of Human Resources.
- 2.2 Managers have a specific responsibility to ensure the fair application of this policy and all members of staff are responsible for supporting colleagues and ensuring its success.
- 2.3 The Trust recognises that, as an employer, it has a duty of care to its employees. The Trust will ensure it provides effective support for anyone facing an allegation and will provide the employee with a named contact if they are suspended.
- 2.4 This policy relates to the management of cases where an allegation might indicate a person would pose a risk of harm if they continued to work in 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 any employee or volunteer in an Academy setting that provides education for children under 18 years of age has:

- (a) behaved in a way that has harmed a child, or may have harmed a child;
- (b) possibly committed a criminal offence against or related to a child; or
- (c) behaved towards a child or children in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children.

### **3 Aims**

To ensure that any allegation made against a teacher or other member of staff or volunteer in an education setting is dealt with fairly, quickly and consistently, in a way that provides effective protection for children, and at the same time supports the person who is the subject of the allegation.

This guidance outlines the initial response to an allegation of abuse against a teacher or another member of staff. For more detailed guidance, particularly action following the outcome of an initial investigation, reference must be made to the DfE Guidance.

### **4 Dealing with Allegations of Abuse**

- 4.1 Allegations of abuse against Trust employees must be taken seriously. This includes the Boarding House and EYFS settings at The PRIORITY LSST and The PRIORITY Witham academies respectively, The Keyworth Centre and The Trust's French centre.
- 4.2 Any allegations must be reported to the Headteacher of the individual Academy immediately, who will discuss the allegation with Director of Student Welfare, Head of Human Resources and the Local Authority Designated Officer (LADO)
- 4.3 The Headteacher will also inform the Chair of the local governing body of the allegation.
- 4.4 Allegations will be dealt with quickly in a fair and consistent way that provides effective protection for the student and supports the person who is the subject of the allegation.
- 4.5 Every effort must be made to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated.
- 4.6 In response to an allegation, employee suspension is not be the default option. Each allegation will be considered individually. An employee will only be suspended if there is no reasonable alternative. If suspension is deemed

appropriate, the reasons and justification should be recorded by The Trust and the employee notified in writing of the reasons.

- 4.7 Students found to have made malicious allegations are likely to have breached Trust behaviour policies. Individual Academies will consider whether to apply an appropriate sanction, which could include temporary or permanent exclusion. A referral to the police may also be considered if there may be grounds for criminal proceedings.
- 4.8 If a member of staff is dismissed following an allegation, or if an allegation is substantiated but the member of staff is not dismissed, the Head of Human Resources and the LADO will be informed of this detail.
- 4.9 All staff should be aware of their duty to raise concerns about the attitudes and actions of colleagues. The Trust recognises that students cannot be expected to raise concerns in an environment where employees fail to do so.

## **5 Physical Intervention**

- 5.1 The Trust policy on physical intervention by employees is set out in the Positive Handling Policy (HR9) and acknowledges that employees must only ever use physical intervention as a last resort. At all times, any physical intervention used must be the minimal force necessary to prevent injury to another person/ or to the individual themselves.
- 5.2 The Trust understands that physical intervention of a nature which causes injury or distress to a child may need to be considered under child protection guidelines, for example, whether a criminal offence has been committed.

## **6 Procedures**

### **Reporting Allegations**

- 6.1 All allegations must be reported to the Headteacher of the individual Academy or, in the case of the Trust, the Head of Human Resources.
- 6.2 In the absence of the Headteacher/ Head of Human Resources, allegations must be reported in person to the Deputy Headteacher or a member of the Senior Leadership Team.
- 6.3 On all occasions, the Headteacher will discuss the content of the allegation with the Director of Student Welfare and Head of Human Resources, who will then inform LADO.

- 6.4 If the allegation made to an employee concerns the Headteacher, the employee will inform the Chief Executive, who will consult with the Trust's Director of Student Welfare and Head of Human Resources, who will then inform LADO.
- 6.5 In the case of the allegation being made against the Chief Executive, the report must be made to the Chair of The Trust, who will consult with the Trust's Director of Student Welfare and the Head of Human Resources, who will then inform LADO.

### **Initial Investigation of an Allegation**

- 6.6 An initial assessment of the allegation will be conducted on the same day the allegation is made, if reasonably possible. If it is not possible, the initial investigation will be conducted the next working day.
- 6.7 Students making an allegation will be listened to and an accurate written account recorded and signed by the student. The account must be taken in the student's own words and the student should not be interviewed; rather, a statement received of the incident.
- 6.8 The initial sharing of information and evaluation may lead to a decision that no further action is to be taken regarding the individual facing the allegation. In these circumstances, the Headteacher, Chief Executive or Chair of The Trust will record the reason and justification and will agree with the LADO about what information will be shared with the person who is the subject of the allegation.
- 6.9 If there is not a cause to suspect that 'significant' harm is an issue, but a criminal offence might have been committed, LADO will immediately inform the police to discuss further the decision on whether a police investigation will be conducted.
- 6.10 Unless there is an objection by the local authority, social care services or the police, the employee who is the subject of the allegation (the employee concerned) will be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action.

### **Investigation of an Allegation**

- 6.11 If further investigation is required, the Trust will appoint an individual to carry this out. An appropriate person to carry out the investigation should be agreed between the Trust and LADO. In some situations, an independent investigation by a third party might be necessary.
- 6.12 The employee concerned will be interviewed by the investigating officer observing the Trust's disciplinary procedure. If a referral has been made to the police or social care services, the Trust will only conduct this interview once the

police or social care services have indicated that it will not interfere with any child protection enquiries or criminal investigations.

6.13 The employee concerned will be advised of the following:

- a) The full allegation.
- b) To contact their trade union representative, if they have one, or a work colleague for support. If applicable, the employee will be granted welfare counselling or medical advice available through The Trust.
- c) Their right to respond to the allegation and provide any evidence or documents to support their response.

6.14 The investigating officer will also interview any witnesses to the incident or obtain any relevant evidence that has been referred to in any interviews.

6.15 The investigating officer will provide a report to the Headteacher of the individual Academies, of the findings and evidence obtained.

6.16 The employee concerned will be kept informed of the progress of the case by a Trust appointed representative. This representative will also consider what other support is appropriate for the employee. This could also include support via occupational health or employee welfare arrangements.

6.17 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.

6.18 Social contact with colleagues must not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

6.19 Parents or carers of a child or children involved will 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 local authority children's social care services need to be involved, the Headteacher must not do so until those agencies have been consulted and have agreed what information can be disclosed to parents.

6.20 Parents and carers will be made aware of their requirement to maintain confidentiality about any allegations made against any teacher while investigations are on going and will be advised to seek legal advice if they wish reporting restrictions to be removed.

## **Investigation Outcome**

6.21 When carrying out the investigation, the Trust will use one of the following definitions to determine the outcome of its investigation into the allegation:

**Substantiated** – where there is sufficient evidence to prove the allegation;

**Malicious** – where there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;

**False** – where there is sufficient evidence to disprove the allegation;

**Unsubstantiated** – where there is insufficient evidence either to disprove or prove the allegation. This term does not imply guilt or innocence;

**Unfounded** – where there is no evidence or proper basis which supports the allegation being made. This will also be used in circumstances where the allegation related to a misinterpretation of an incident or where the witness was unaware of the circumstances.

6.22 When considered necessary, a disciplinary hearing will be held within the next seven working days (or if the matter is referred to the police or social care services, after their investigation is concluded); and in accordance with the Trust's Disciplinary Policy.

6.23 The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed.

6.24 The parents or carers must also be kept informed about the progress of the case and notification of the outcome where there is not a criminal prosecution.

6.25 In cases where a child may have suffered significant harm or there may be a criminal prosecution, the local authority social care services or the police will consider what support the child or children involved may need.

6.26 If the allegation is not demonstrably false or unfounded and there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion should be convened in accordance with page 36 and 37 of Working Together to Safeguard Children (March 2015).

6.27 If the allegation is about physical contact, the strategy discussion or initial evaluation with the police will take account of the fact that teachers and other Trust employees are entitled to use reasonable force to control or restrain students in certain circumstances, including dealing with disruptive behaviour as per The Trust's Positive Handling Policy.

## **7 Timescales**

- 7.1 The time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation. In addition a lot of these timescales are outside the control of the Trust.
- 7.2 The DfE expects that 80 per cent of cases should be resolved within one month; 90 per cent within three months; and all but the most exceptional cases should be completed within 12 months.
- 7.3 For those cases where it is immediately clear that the allegation is unfounded or is malicious, it is expected that the case should be resolved within one week, or five working days.
- 7.4 Where the initial consideration decides that the allegation does not involve a possible criminal offence, the Trust will handle the investigation. If, however, there are concerns about child protection, the Trust will discuss these concerns with the LADO.
- 7.5 In such cases, if the nature of the allegation does not require formal disciplinary action, the Headteacher will instigate appropriate action within three working days.
- 7.6 If a disciplinary hearing is required and can be held without further investigation, the hearing will be held within seven working days.
- 7.7 If the strategy discussion or initial assessment decides that a police investigation is required, a target date will be set for reviewing the progress of any police investigation and subsequent consultation of The Crown Prosecution Service (CPS) about any decision to:
- (a) Charge the employee;
  - (b) Continue to investigate; or
  - (c) Close the investigation.

Wherever possible, that review should take place **no later than four weeks** after the initial evaluation.

- 7.8 Dates for subsequent reviews, ideally at fortnightly intervals, will be set at the meeting if the investigation continues.
- 7.9 Referral must always be made to LA guidelines.



## **8 Oversight and Monitoring**

- 8.1 The LADO has overall responsibility for oversight of the procedures for dealing with allegations; for resolving any inter-agency issues; and for liaising with the Local Safeguarding Children Board (LSCB) on the subject. The LADO will provide advice and guidance to the Trust, in addition to liaising with the police and other agencies. LADO will also monitor the progress of cases to ensure that they are dealt with in a timely manner and that the cases are consistent with a thorough and fair process.
- 8.2 Reviews will be conducted at fortnightly or monthly intervals depending on the complexity of the case.

## **9 Suspension**

- 9.1 The possible risk of harm to children posed by an accused employee needs to be effectively evaluated and managed in respect of the student(s) involved in the allegations.
- 9.2 This may require the Trust to consider suspending the employee concerned until the case is resolved.
- 9.3 Suspension must not be an automatic response when an allegation is reported. If the Trust is concerned about the welfare of other children in the community or the family of the employee, those concerns will be reported to the LADO or the police. However, suspension is highly unlikely to be justified on the basis of such concerns alone.
- 9.4 Suspension will only be considered in a case where:
- (a) there is cause to suspect a child or other children at an Academy is or are at risk of significant harm; or
  - (b) the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal.
- 9.5 The employee leading the investigation at the Academy must consider carefully whether the circumstances of the case warrant the employee being suspended from contact with children at the Academy until the allegation is resolved. The investigation lead must seek advice from the Head of Human Resources.
- 9.6 The leading member of staff must also consider whether the result that would be achieved by suspensions could be obtained by alternative arrangements; for example, redeployment so that the individual does not have direct contact with the child concerned, or providing an assistant to be present when the individual has contact with children.

- 9.7 This allows time for an informed decision regarding the suspension and possibly reduces the initial impact of the allegation. This will, however, depend upon the nature of the allegation.
- 9.8 The Academy will consider the potential permanent professional reputational damage to teachers that can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended.
- 9.9 Where it has been deemed appropriate to suspend an employee, they will be informed verbally and then given written confirmation explaining the reasons for the suspension. The confirmation should be posted to the employee within one working day. The employee should be given the name and contact details for their named contact within the Trust.
- 9.10 Local authority children's social care services or the police cannot require the Trust to suspend an employee or volunteer, although appropriate weight should be given to their advice.
- 9.11 The power to suspend is vested in the Chief Executive Officer and Headteachers. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by the local authority social care services and/or an investigation by the police, the LADO should canvass police and the local authority children's social care services for views about whether the accused employee needs to be suspended from contact with children and to inform them of the Trust's consideration of suspension.
- 9.12 In cases where the employee concerned is suspended but the investigation or disciplinary hearing finds an outcome of malicious, false or unfounded allegation and it is concluded that the employee should return to work, the Trust will assess with the employee what support and help will be required to facilitate a return to work.

## **10 Information Sharing**

- 10.1 In a strategy discussion or the initial evaluation of the case, the agencies involved will share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.
- 10.2 Wherever possible, the police will obtain consent from the individuals concerned in the allegations in order to share with the Trust any statements or evidence gathered. This consent should be obtained as the investigation proceeds. This will enable the police to share relevant information without delay at the conclusion of their investigation or any court case.

- 10.3 The local authority's social care services should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are in need of protection or services. This is to ensure that any relevant information obtained in the course of those enquiries can be passed on to the Trust for possible use in a disciplinary case.
- 10.4 Academies and lead staff will take advice from the Head of Human Resources, the LADO, police and local authority social care services to agree the following:
- (a) who needs to know and, importantly, exactly what information can be shared;
  - (b) how to manage speculation, leaks and gossip;
  - (c) what, if any, information can be reasonably given to the wider community to reduce speculation; and
  - (d) how to manage press interest if and when it should arise. In deciding what information to disclose, careful consideration should be given to the provisions of the Data Protection Act 1988, confidentiality and, where relevant, the Human Rights Act 1998.

## **11 Resignations**

- 11.1 The fact that an employee tenders their resignation, or ceases to provide their services, must not prevent an allegation being followed up in accordance with these procedures.
- 11.2 It is important that every effort is made to reach a conclusion in all cases of allegations which may have a bearing on the safety or welfare of children, including any in which the employee concerned refuses to cooperate with the process.
- 11.3 Wherever possible, the employee concerned must be given a full opportunity to answer the allegation and make representations about it. The process of recording the allegation, gathering supporting evidence, and reaching a judgement about whether the allegation can be regarded as substantiated must continue even if the employee concerned has not taken the opportunity to answer the allegation or where the employee does not cooperate.
- 11.4 It may be difficult to reach a conclusion in the event of the employee concerned not cooperating and it may not be possible to apply any disciplinary sanctions if the employee's period of notice expires before the process is complete. However, it is important to reach and record a conclusion wherever possible.

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## **12 Action Following a Criminal Investigation or a Prosecution**

The police or Crown Prosecution Service should inform the Trust and the LADO straight away when/if:

- (a) a criminal investigation and any subsequent trial is complete;
- (b) it is decided to close an investigation without charge; or
- (c) the prosecution has been discontinued after the person is charged.

12.1 In these circumstances, the LADO will discuss with the Headteacher and the Chief Executive whether any further action, including disciplinary action, is appropriate and, if so, how to proceed.

12.2 The information provided by the police and/or the local authority social care services will inform the decision on whether any further action is appropriate and how to proceed. The options will depend on the circumstances of the case and the consideration will need to take account of the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

## **13 Record Keeping**

13.1 Details of allegations that are found to have been malicious will be removed from personnel records.

13.2 For all other allegations, it is important that the following is kept in the confidential personnel file of the employee concerned:

- (a) a clear and comprehensive summary of the allegation;
- (b) details of how the allegation was followed up and resolved; and
- (c) a note of any action taken and decisions reached.

A copy of this information will also be given to the employee concerned.

13.3 The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future Disclosure and Barring Service (DBS) checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.

13.4 The record will be retained at least until the employee concerned has reached normal pension age or for a period of 10 years from the date of the allegation, whichever is longer.

#### **14 Action on Conclusion of a Case**

- 14.1 If an allegation is substantiated and the employee is dismissed, the Trust has a statutory duty to make reports and to provide relevant information to the DBS and National College for Teaching and Learning when it believes that an individual has engaged in conduct that harmed (or is likely to harm) a child, including inappropriate sexual conduct; or if a person otherwise poses a risk of harm to a child. Referrals will be made as soon as possible after the resignation or removal of the employee involved and within one month of ceasing to use the person's services.
- 14.2 In such circumstances, the duty to refer an individual to the DBS arises where an employer has removed the individual from relevant work with children or the person has chosen to cease relevant work in circumstances where they would have been removed had they not done so. The DBS will consider whether to bar the person from working in regulated activity, which will include work in schools and other educational establishments.
- 14.3 Upon conclusion of the case where the employee concerned has been suspended and can now return to work, the Trust and the Academy will consider how best to facilitate that. Most people will benefit from some help and support to return to work after a very stressful experience.
- 14.4 Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate for the employee.
- 14.5 The Trust and the Academy will also consider how the employee's contact with the child or children who made the allegation can best be managed if they are still a student at the Academy.

#### **15 Reflection and Further Action**

- 15.1 At the conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the Headteacher, the Head of Human Resources, the Chief Executive and/or the Chair of the Trust. This is to determine whether there are any improvements to be made to the Trust's procedures or practices to help prevent similar events in the future. This will include issues arising from the decision to suspend the employee, the duration of the suspension and whether or not suspension was justified.

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- 15.2 If an allegation is determined to be unfounded or malicious, the LADO should refer the matter to local authority children's social care services to determine whether the child concerned is in need of their services, or may possibly have been abused by someone else.
- 15.3 In the event that an allegation is shown to have been deliberately invented or malicious, the Chief Executive and the Headteacher will consider whether any disciplinary action is appropriate against the person responsible, even if he or she was not a student.
- 15.4 In September 2010, the CPS published guidance for the police on harassment (CPS Stalking and Harassment Guidance) under the Protection from Harassment Act 1997.

## **16 References**

- 16.1 Cases in which an allegation was proven to be unsubstantiated, unfounded or malicious will not be included in employer references. A history of repeated concerns or allegations which have all been found to be unsubstantiated, malicious, etc. will also not be included in any reference.

## **17 Policy Change**

This policy may only be amended or withdrawn by The Priory Federation of Academies Trust.



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## **The Priory Federation of Academies Trust Allegations of Abuse Against Academy Staff Policy**

This Policy has been approved by the Pay, Performance and HR Committee:

Signed..... Name..... Date:

Trustee

Signed..... Name..... Date:

Chief Executive Officer

Signed..... Name..... Date:

Designated Member of Staff

Please note that a signed copy of this agreement is available via Human Resources.