



Pashley Down Infant School

Learning at Pashley is an amazing adventure

Managing Allegations Against Staff

Reviewed/Adopted: April 2024

Next Review: April 2026

INTRODUCTION

This policy and procedure is based on the Pan Sussex Safeguarding Procedures 2023, and take into account the details in chapter 2 of Working Together to Safeguard Children.

The aim is to ensure that allegations of abuse are dealt with in a manner that is consistent with County practice, so that the process is both thorough and fair.

These procedures will be applied when there is an allegation or concern that any person who works with children, in connection with their employed or voluntary activity, 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 towards a child or children in a way that indicated he or she may pose a risk of harm to children.

These behaviours should be considered within the context of the four categories of abuse, i.e. Physical Abuse, Sexual Abuse and Emotional Abuse and Neglect.

These include concerns relating to inappropriate relationships between adults and children or young people, e.g. having a sexual relationship with a child under 18 if in a position of trust in respect of that child, even if consensual (*Sections 16-19 Sexual Offences Act 2003*); 'grooming', i.e. meeting a child under 16 with intent to commit a relevant offence (*Section 15 Sexual Offences Act 2003*); other 'grooming' behaviour giving rise to concerns of a broader child protection nature e.g. Inappropriate text, e-mail messages or images, gifts, socialising, etc. and possession of abusive images of children

All references in this document to 'members of staff' should be interpreted as meaning all staff, whether they are in a paid or unpaid capacity (including contracted staff).

POLICY

1. GENERAL

All concerns should be reported to the Designated Safeguarding Leads / DSLs (posters noting the names of all DSLs are displayed around the school; these posters are updated regularly).

1 a. The headteacher

As soon as possible after an allegation is made, the DSL should inform the parent(s) or carer(s) of the child(ren) involved. - *Note:* The Local Authority Designated Officer / LADO should be consulted first to ensure that this does not impede the disciplinary or investigative processes. In some circumstances, however, the parents/carers may need to be told straight away, e.g. if a child is injured and required medical treatment.

The headteacher should inform OFSTED of all allegations or concerns made against a member of staff.

1 b. Parents / carers of the child

The parents/carers of the child should be helped to understand the processes involved and kept informed about the progress of the case and 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.

1 c. The member of staff

In principle the headteacher should, as soon as possible, inform the person who is subject to the allegation about the nature of the allegation or concern, how enquiries will be conducted and the possible outcome e.g. disciplinary action. Advice should be sought from the Local Authority Designated Officer, as police and/or social care may want to impose restrictions on the information that can be provided.

The member of staff should:

- Be treated fairly and honestly, and helped to understand the concerns expressed and the processes involved;
- Be kept informed of the progress and outcome of any investigation and the implications for any disciplinary or related processes;
- If suspended, be kept up-to-date about events in the workplace.

2. CONFIDENTIALITY

Every effort should be made to maintain confidentiality and guard against publicity while an allegation is being investigated or considered. Apart from keeping the parents/carers and the accused person 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, and to manage related disciplinary or suitability processes.

3. SUPPORT

3 a. For the Child

The school, together with Children's Social Care (CSC) and/or Police where they are involved, should consider the impact on the child concern, and provide support as appropriate. Liaison between agencies should take place in order to ensure that the child's needs are addressed.

3 b. For the Person Subject to the Allegation or Concern

As soon as possible after an allegation has been received, the person subject to the allegation or concern should be advised to contact his/her union or professional association.

The staff member should also be advised of the support available through the County service e.g. confidential counseling, occupational health.

4. MANAGING INTERIM RISK

4 a. General

In all situations the perceived level of risk during the investigation needs to be considered and managed.

In certain situations, the level may require the member of staff not to be working with specific children, or all children, until the investigation is over. If this is the case, the following options are available to the school:

- Redeployment so not to come into contact with children;
- Refraining (agreeing that the person will not work with children during the investigation); or
- Suspension.

Refraining or suspension should be considered to be neutral actions, and should not be automatic. They should be considered in any case where:

- There is cause to suspect a child is at risk of significant harm;
- The allegation warrants investigation by the police; or
- The allegation is so serious that it might be grounds for dismissal.

4 b. Evaluating Risk

Decisions about risk will be made in an inter-professional forum, if Social Care or Police are to make enquiries. The Local Authority Designated Officer will advise the school on refraining / suspending. However, only the school managers have the power to refrain / suspend an employee and they cannot be required to do so by the Local Authority or the Police.

4 c. Considerations Post Investigation

If a refrained/ suspended person is to continue to work with children after the investigation has been completed, the headteacher should consider what help and support might be provided e.g. a phased return to work and/or the provision of a ‘buddy’ colleague. Consideration should also be given to how best to manage the member of staff’s contact with the child concerned, if still in the school.

5. RESIGNATIONS AND ‘COMPROMISE AGREEMENTS’

5 a. School managers aim to reach a conclusion in all cases, even if:

- The staff member has not been willing to cooperate with processes outlined above i.e. after having been given a full opportunity to answer the allegations and make representation
- The staff member's period of notice expires before the process is complete. However, in every situation the outcome of the disciplinary process should be recorded.

5 b. 'Compromise agreements'

Compromise agreements should not be used in cases where there are Child Protection concerns e.g. where a member of staff agrees to resign provided that disciplinary action is not taken and that a future reference is agreed.

6. ORGANISED AND HISTORICAL ABUSE

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 (Organised or Multiple) Abuse Procedure, which, if applicable, will take priority.

7. WHISTLEBLOWING

All staff should be made aware of the school's whistleblowing policy and feel confident to voice concerns about the attitude or actions of colleagues or volunteer helpers.

If a member of staff believes that a reported allegation or concern is not being dealt with appropriately by the school, s/he should report the matter to the Local Authority Designated Officer / LADO.

PROCEDURES

8. INITIAL RESPONSE

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 school, or a complaint by a parent or carer.

8 a. Initial action by the headteacher (NOTE: where the headteacher is the subject of the allegation, these actions should be taken by the deputy)

The headteacher should treat the matter seriously and keep an open mind.

S/he should not:

- Investigate or ask leading questions if seeking clarification;
- Make assumptions or offer alternative explanations; or
- Promise confidentiality, but give reassurance that the information will only be shared on a ‘need to know’ basis.

S/he should:

- Make a written record of the information (where possible in the child’s / 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. (Note: This can be recorded ‘electronically’, e.g. on MyConcern)

S/he should also:

- Obtain written details of the concern / allegation, signed and dated by the persons involved, including potential witnesses (but *not* the child / adult making the allegation). These statements should be countersigned by the headteacher;
- Make a record of discussions about the member of staff, and decisions made, and the reasons for those decisions.

8 b. Sharing information

If the allegation meets the criteria set out in the introduction, the headteacher should report it to the Local Authority Designated Officer / LADO within 1 working day.

If an allegation requires immediate attention, but is received outside normal office hours, the headteacher should consult the Social Care Emergency Duty Team, or the local Police. The LADO should be informed as soon as possible.

8 c. Initial Consideration by the Headteacher and the Local Authority Designated Officer / LADO

There are up to 3 strands in the consideration of an allegation:

- A Police investigation of a possible criminal offence;
- Social Care enquiries and/or assessment about whether a child is in need of protection or services;
- Consideration by school managers following the disciplinary, standards of care or conduct procedures of the school.

The LADO and the headteacher should first consider whether further details are needed and whether there is evidence or information that establishes that the allegation is false or unfounded.

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

The Police must be consulted about any case in which a criminal offence has been committed. If the threshold for significant harm is not reached, but a Police investigation might be needed, the LADO will inform the Police and convene an Initial Evaluation (similar to a Strategy Discussion).

8 d. Strategy discussion or meeting

Whenever possible, a strategy discussion should take the form of a meeting, however on occasions a telephone discussion may be justified. The following is a list of possible participants:

- Local Authority Designated Officer / LADO
- Relevant Social Worker and his/her manager
- Police – CPT Detective Sergeant
- Headteacher
- Personnel officer
- Chair of the governor complaint team
- Legal adviser (where appropriate)
- Consultant Pediatrician (where appropriate)

The strategy discussion should also:

- Ensure that arrangements are made to protect the child/ren involved and any other children affected;
- Consider what support should be provided to the children who may have been affected;
- Consider what support should be provided to the member of staff and others who may have been affected;
- Ensure that investigations are sufficiently independent;
- Make recommendations, where appropriate, regarding suspension, or alternative to suspension;
- Agree protocols for the investigation and monitoring, including timescales;
- Consider issues for school managers e.g. Media interest, resource implications;
- Consider reports for ‘consideration of barring’;
- Consider Risk Assessments to inform the school’s safeguarding arrangements.

8 e. Unsubstantiated allegations

Where it is concluded that there is insufficient evidence to substantiate an allegation, a report of the enquiry should be written.

8 f. False allegations

The Local Authority's view is that false allegations are rare and may be a strong indicator of abuse elsewhere which requires further exploration. If an allegation is demonstrably false, the headteacher in consultation with the LADO, should refer the matter to Social Care to determine whether the child is in need of services, or might have been abused by someone else.

If it has been established that an allegation has been deliberately invented, the Police should be asked to consider what action may be appropriate.

9. RESTRICTIONS ON IDENTIFYING TEACHERS AGAINST WHOM ALLEGATION OF CRIMINAL MISCONDUCT HAVE BEEN MADE

With effect from 1 October 2012, the Education Act 2011 introduced reporting restriction prevention the publication of any material that may lead to the identification of a teacher who has been accused by, or on behalf of, a pupil from the same school (where that identification would identify the teacher as the subject of the allegation). The reporting restrictions apply until the point that the accused person is charged with an offence, or until the Secretary of State publishes information about an investigation or decision in a disciplinary case arising from the allegation. The reporting restrictions also cease to apply if 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, or if a judge lifts the restriction in response to a request to do so. Breaching the reporting restrictions is a criminal offence.

The case manager should take advice from the LADO, Police and Children's Social Care services to agree the following:

- Who needs to know and, importantly, exactly what information can be shared;
- How to manage speculation, leaks and gossip;
- What, if any information can be reasonably given to the wider community to reduce speculation; and
- How to manage press interest if and when it should arise.

(Note that this provision applies only to teachers, not to other staff)

10. S47 AND POLICE INVESTIGATIONS

10 a. Police investigations and Strategy discussions

If at the Strategy discussion it is decided that either the Police and/or Children's Social Care are to undertake enquiries or investigations then the progress of these enquiries should be reported back to school managers and the Local Authority Designated Officer, at agreed intervals.

10 b. Outcomes of Police investigations or Strategy Discussions

At the completions of the Policy investigation and/or S47 a further Strategy Discussion should be held to ensure that all tasks have been completed. This strategy discussion should:

- Ensure that the member of staff has been informed of the outcome of the Police Investigation / S47;
- Give the investigating officer / social worker an opportunity to summarise the actions taken, people interviewed - and offer a professional judgement on whether the allegations fell into one of the following categories:
 - **Substantiated** – A substantiated allegation is one which is supported or established by evidence or proof.
 - **Unsubstantiated** – An unsubstantiated allegation is not the same as a false allegation. It simply means that there is insufficient identifiable evidence to prove or disprove the allegation. The term, therefore, does not imply guilt nor innocence.
 - **Unfounded** – This indicates 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. For an allegation to be classified as unfounded, it will be necessary to have evidence to disprove the allegation.
 - **Deliberately invented or malicious** – This implies a deliberate act to deceive. A malicious allegation may be made by a pupil following an altercation with a teacher, or by a parent who is in dispute with the school. For an allegation to be classified as malicious, it will be necessary to have evidence, which proves this intention.
- This information should be recorded and given as a written record to school managers, and to the Local Authority Designated Officer (as per the procedures of East Sussex).

11. DISCIPLINARY OR SUITABILITY PROCESS AND INVESTIGATIONS

11 a. Deciding whether disciplinary / standards of care action is appropriate

The Local Authority Designated Officer and the headteacher should discuss whether disciplinary/standard of care action is appropriate – in all cases where:

- It is clear at the outset, or decided by a Strategy Discussion that a Police investigation or Social Care Enquiry is not necessary, or
- The headteacher or Local Authority Designated Officer is informed by the Police or Crown Prosecution Service that a criminal investigation and any subsequent trial is complete, or that an investigation is to be closed without charge, or a prosecution discontinued.

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

- Information provided by the Police and/or Social Care;
- The result of any investigation or trial;
- The different standard of proof in disciplinary and criminal proceedings.

11 b. Supply Staff and Volunteers

In the case of supply workers and volunteers, normal disciplinary procedures may not apply. In these circumstances, the Local Authority Designated Officer and headteacher should act jointly in deciding whether to continue to use the person's services, or provide any future work with children, and if not, whether to make a report for the consideration of barring or other action.

11 c. Timescales

It is important to recognise that the right outcome is far more important than meeting the timescales noted below. The following principles should be used at all times:

- Minimizing delay;
- Providing thorough written information;
- Being open;
- Ensuring access to independent support.

If formal disciplinary action is not required, the headteacher should institute appropriate action within 3 working days.

Where an investigating officer is involved, the aim will be to provide a report within 10 working days. On receipt of the report, school managers should decide, within 2 working days, whether a disciplinary hearing is needed. This hearing should be held within 15 working days.

12. RECORD KEEPING AND MONITORING

12 a. Record keeping

The headteacher should keep a clear and comprehensive summary of the case. The case record should include details of how the allegation was followed up and resolved, the decisions reached and the action taken. It should be completed in collaboration with the Local Authority Designated Officer.

A copy of this summary should be:

- Placed on the person's confidential personnel file;
- Given to the individual; and
- Given to the Local Authority Designated Officer.

12 b. Monitoring progress

The Local Authority Designated Officer should record and monitor the progress of the case. This could be by way of review strategy discussions or direct liaison with Police, Social Care or the headteacher, as appropriate.

The Local Authority Designated Officer should ensure that the case is being dealt with expeditiously and that there are no undue delays.

12 c. Referral to the Barring List

If the allegation is substantiated and the person is dismissed or the person resigns, the Local Authority Designated Officer should discuss with the headteacher whether a referral should be made to the Barring List. If a referral is to be made, it should be submitted within 1 month.

ALLEGATIONS AGAINST STAFF IN THEIR PERSONAL LIVES

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

APPENDICES

SPECIFIC CIRCUMSTANCES

**Allegations or concerns against staff and volunteers
DISCIPLINARY OR SUITABILITY PROCESS**

