



**Policy Number**

33

**Allegations of Abuse against Staff**

**Approved By:** Ebor Academy Trust Board of Trustees

**Approval Date:** November 2021

**Review Period:** Three Years

**Review Date:** November 2024

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**Date Created/updated:** October 2021

**Version Number:** 8

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## DEFINITIONS USED THROUGHOUT THIS POLICY

**'Safeguarding'** – the process of protecting children from maltreatment, preventing impairment of their health and development, ensuring they are growing up in circumstances consistent with the provision of safe and effective care and taking action to enable all children to have the best outcomes. Being aware that the damage to children's emotional health and mental wellbeing is just as significant as protecting children from exposure to physical harm.

**'Allegation'** - information which comes to light which suggests an employee, volunteer or contractor may have hurt or harmed a child, possibly committed a criminal offence against a child or has behaved in such a way towards a child or young person that indicates they would pose a risk of harm to children if they continue their current employment or in any capacity which involves working with children.

**'Headteacher'** - refers to the person responsible in schools, but, where an allegation is made against a headteacher, the role of the headteacher then applies to the Executive Headteacher, or their designated representative. It also refers to the Senior Leader responsible in relation to allegations against centrally employed members of staff or those employed in educational establishments other than schools.

**'Member of staff'** - includes any adult, paid or voluntary, who works in a school or the central services team.

**'LADO'** - Local Authority Designated Officer. The person responsible for providing advice and monitoring cases of alleged abuse against a child by an adult in a position of trust.

The terms **'child'** refers to children who are on roll at the Trust up to 1st September following the completion of their GCSE or Sixth Form studies.

**'Working days'** - refers to the days during which the school or educational establishment is open, including training days.

**'Disclosure and Barring Service (DBS)'** - a non-departmental public body set up to administer the vetting and barring scheme and criminal records checks.

**'National College for Teaching and Leadership (NCTL)'** - is responsible for ensuring that in cases of serious professional misconduct, teachers are barred from teaching.

### **'Regulated Activity' -**

1. Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children.
2. Work for a limited range of establishments ('specified places'), with opportunity for contact, for example schools, children's homes, childcare premises (but not work by supervised volunteers).

Work under (1) or (2) is Regulated Activity only if done regularly. Regular means carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period (or in some cases, overnight).

3. Relevant personal care, for example washing or dressing; or health care by or supervised by a professional, even if done once.
4. Registered childminding and foster-carers.

## DEALING WITH ALLEGATIONS OF ABUSE AGAINST STAFF

### 1. INTRODUCTION

- 1.1 Ebor Academy Trust is committed to providing the highest care for both its pupils and staff. This policy is intended to ensure that any allegations of abuse made against a member of staff or volunteer in our schools will be dealt with thoroughly and efficiently, maintaining the highest level of protection for the child whilst also giving support to the person who is the subject of the allegation.
- 1.2 This guidance applies to all staff members whose work brings them into contact with children (i.e. anyone aged under 18) in an education setting. It therefore applies to all teachers (including supply teachers) and support staff, volunteers and other adults, whether paid or working in a voluntary capacity, on or off school premises and sites.
- 1.3 In the case of an allegation against the Headteacher, the Executive Headteacher (or their designated representative) is responsible for ensuring the process is followed.
- 1.4 This guidance explains what action the Headteacher (or Executive Headteacher or their representative, in the case of an allegation against the Headteacher) must follow where an allegation has been made against a member of staff. The Headteacher **must not** delegate this responsibility.
- 1.5 This guidance is based on the following legislation:
  - The Children Act 1989 (and [2004 amendment](#)), which provides a framework for the care and protection of children
  - Section 175 of the Education Act 2002 (local authorities, governing bodies of maintained schools and institutions in the further education sector)
  - the Education (Independent School Standards) Regulations 2014 and the Education (Non-Maintained Special Schools) (England) Regulations 2011
  - Sections 141F, 141G and 141H of the Education Act 2002 as amended by Education Act 2011.

This guidance follows the DfE guidance on allegations of abuse against teachers and other staff in Part 4 of Keeping Children Safe in Education.

### 2. LINK TO VETTING AND TRAINING

- 2.1 All members of staff who work unsupervised with children in regulated activity are required to complete an Enhanced Disclosure and Barring Service check to ensure suitability for working with children. It is an offence to employ anybody in regulated activity who has been barred from working with children by the Disclosure and Barring Service (DBS).
- 2.2 All staff and volunteers working in regulated activity will be given appropriate safeguarding training, which includes safer working practice and management of allegations. This should be updated by all staff every year.
- 2.3 All new members of staff and volunteers will be given guidance and training on safeguarding

children, safer working practice and allegations of abuse. This will usually be done as part of their induction.

- 2.4 All staff dealing with children requiring additional care (Care Plans, etc.) will be given appropriate information and training specifically in relation to intimate care and delivering any required physical intervention as part of a child's care needs.

## Part 1

### 3. WHAT IS AN ALLEGATION?

- 3.1 Keeping Children Safe in Education 2021 states that there are two levels of concerns/allegations against those working in school:
- Allegations that meet the harm threshold
  - Allegations or concerns that do not meet the harm threshold, called “low level concerns”.
- 3.2 The procedure for managing allegations that meet the harm threshold is contained in section 7. Part 2 section 1 of this policy refers to managing low level concerns.
- 3.3 The following will be used in respect of all cases in which it is alleged that a member of staff, volunteer or other adult working within one of the schools within the Trust has:
- a) behaved in a way that has harmed, or may have harmed a child; or
  - 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 they would pose a risk of harm if they work regularly or closely with children; or
  - d) behaved or may have behaved in a way that indicates they may not be suitable to work with children.

Where a member of staff believes that they have witnessed an act of wrongdoing which affects others, for example, the general public or multiple people in the Trust or its community, they may instead bring a whistleblowing claim, if they believe it is in the public interest so to do.

- 3.4 When an allegation is made, it is important that the procedures contained in this document are followed immediately. **An internal investigation must not commence until agreement is given to proceed from the LADO.**
- 3.5 The procedures for dealing with allegations need to be applied with common sense and judgement. Many cases may well either not meet the criteria set out above at all or may do so without warranting consideration of a police investigation or enquiries by Local Authority Children's Services. In these cases, internal arrangements should be followed to resolve cases quickly and without delay.
- 3.6 It is important to ensure that even apparently less serious allegations are seen to be followed up and are examined objectively. There is a statutory duty to report allegations to the relevant local authority.
- 3.7 It is essential that any allegation of abuse made against a teacher, other member of staff or a volunteer in an education setting is dealt with fairly, quickly and consistently, in a manner which provides effective protection for the child and also supports the person who is the subject of the allegation.

3.8 Headteachers may also seek the advice of the LADO where an employee's behaviour is a matter of concern to their manager because it compromises, or may be seen to compromise, the reputation and ability of the organisation to safeguard children. Some examples of this may be where an individual has:

- a) contravened or continued to contravene any safe practice guidance given by their organisation or regulatory body
- b) exploited or abused a position of power
- c) acted in an irresponsible manner which any reasonable person would find alarming or questionable given the nature of work undertaken
- d) demonstrated failure to understand or appreciate how their own actions or those of others could adversely impact on the safety and well-being of a child
- e) demonstrated an inability to make sound professional judgements which safeguard the welfare of children
- f) failed to follow adequately policy or procedures relating to safeguarding and promoting the welfare of children
- g) failed to understand or recognise the need for clear personal and professional boundaries in their work
- h) behaved in a way in their personal life which could put children at risk of harm
- i) become the subject of criminal proceedings relating to a child
- j) become subject to enquiries under local child protection procedures
- k) behaved in a way which seriously undermines the trust and confidence placed in them by the employer.

3.9 When an allegation has been made consideration will be given as to whether:

- a) any action is needed
- b) a Police investigation of a possible criminal offence is required
- c) enquiries and assessment by Children's Social Care Services are required about whether a child is in need of protection or in need of services
- d) disciplinary action or other sanction may be necessary.

3.10 In some circumstances, following the outcome of an investigation/Police action, it may be necessary to report the member of staff to the Disclosure and Barring Service (DBS) for consideration of inclusion on their barred lists and for referral to the National College for Teaching and Leadership. Because of the potential seriousness of such allegations it is helpful for the individual against whom allegations have been made to contact their trade union representative at an early stage. If the person is not in a trade union, a supportive colleague will be identified and agreed with the member of staff for them to speak to.

3.11 Concerns are sometimes raised by colleagues who have witnessed behaviour that they consider to be abusive or inappropriate. It is important to enable staff to disclose their views without fear of retribution, even if the concerns are subsequently unsubstantiated. Such staff should be supported in accordance with the Trust's Whistleblowing Policy

#### **4. SAFEGUARDING CHILDREN**

4.1 Educational establishments play an important part in the prevention and detection of abuse and neglect, through their own policies and procedures for safeguarding children, creating and maintaining a safe environment, and through the curriculum. They promote resilience in children by helping them to stay safe from harm and encouraging them to talk to someone if they have worries or concerns. Staff members play a crucial role in this process in noticing indications of abuse or neglect and in reporting concerns to Children's Social Care Services. But in rare circumstances staff in educational establishments have been found to be responsible for child abuse. Given their daily contact with children in a variety of

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situations, staff are also vulnerable to accusations of abuse, leading to allegations from children, parents or other staff members.

- 4.2 These allegations must be taken seriously, and while they may be found to be false, malicious or unsubstantiated, they may also be well founded. Children or parents may make a direct referral to the Police or Children's Social Care Services, who will discuss the allegations with the LADO.

## **5. ABUSE OF POSITION OF TRUST**

- 5.1 All adults working with children and young people are in a position of trust in relation to the young people in their care.
- 5.2 Where a person aged 18 or over is in a specified position of trust with a child it is an offence for that person to engage in sexual activity with or in the presence of that child or to cause or incite that child to engage in or watch sexual activity.
- 5.3 For further information see guidance on the Sexual Offences Act 2003 at [www.legislation.gov.uk](http://www.legislation.gov.uk).

## **6. POSITIVE PHYSICAL INTERVENTION (PPI)**

- 6.1 Where an allegation is made involving the use of physical intervention, consideration should be given as to whether the action taken was necessary and proportionate. Where an incident relates to the use of reasonable force to restrain a child, it will be appropriate for the Headteacher to deal with this in accordance with their behaviour policy. There is clear guidance on the Use of Reasonable Force (DfE July 2013).
- 6.2 All such incidents should be reported through the school's usual channels (details of which are available from a member of the school's management team or the Designated Safeguarding Lead, and will have been covered in induction training), recorded and discussed with parents as soon as possible in line with Trust policy.
- 6.3 If an allegation of assault is made following a restraint, this must be seen as a child protection matter and discussed with the LADO in accordance with these procedures. If in doubt, the Headteacher should consult with the LADO to establish whether the use of force was necessary and proportionate. Where a headteacher has a concern that a child's safety or welfare has been impaired, and they have made a referral to the LADO, then the headteacher must notify the Trust safeguarding officer and the relevant Human Resources adviser.

## **7. PROCEDURE FOR MANAGING ALLEGATIONS**

- 7.1 Allegations may be made directly to the Headteacher by children, parents, members of staff or other persons. In some instances, allegations are made directly to the Police, who will inform Children's Social Care Services if they believe the allegation meets the threshold for referral. The LADO will contact the Headteacher to discuss the allegation and advise on the action needed. If a child makes such a disclosure it cannot go unreported and the child needs to understand that, whilst it cannot be kept secret, it will be dealt with sensitively.

- 7.2 All staff have a responsibility to report a member of staff who they believe is 'harming' or using unacceptable behaviour towards a child, to the Headteacher. Where a child or adult reports concerns to a member of staff, they must be listened to and taken seriously. The member of staff **must not attempt to investigate the allegation** but inform the Headteacher and provide a full written and dated account of what has been reported. The Headteacher should inform the LADO of all allegations **on the same day** or, if it is outside of normal working hours, the next working day.
- 7.3 **The Headteacher must not take any action, commence an investigation, or inform the member of staff of the allegation before consulting with the LADO**, but may make basic enquiries to determine whether the allegation could possibly have occurred or to establish the facts of the allegation, if these were unclear, e.g.
- a) was the child/staff member in school on that day?
  - b) could the child have had contact with the staff member?
  - c) could there have been any witnesses?
- 7.4 The purpose of an initial discussion is for the LADO and the Headteacher to consider the nature, content and context of the allegation and agree a course of action. The LADO may ask the Headteacher to provide or obtain any additional information which may be relevant such as previous history, whether the child or their family have made similar allegations and the individual's current contact with children. This initial sharing of information and evaluation may lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern, in which case this decision and a justification for it should be recorded, by both the Headteacher and the LADO, and agreement reached as to what information should be shared with the individual concerned and by whom. The Headteacher should then consider with the LADO what action should follow in respect of the individual and those who made the initial allegation.
- 7.5 The Headteacher must inform the staff member about the allegation as soon as possible **after** consulting the LADO. They should provide the individual with as much information as possible at the time and advise them to seek trade union representation. However, where a strategy meeting is needed, or police or Children's Social Care Services need to be involved, the Headteacher **should not** inform the staff member about the allegation until those agencies have been consulted and have agreed what information can be disclosed to the person. The Trust must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the school until the allegation or concern is resolved (see sections 9.2 and 9.3 on Suspension). If the allegation is not demonstrably false or unsubstantiated and there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy meeting (as explained in section 8 below) should be convened in accordance with Keeping Children Safe in Education.
- 7.6 Where it is clear that an investigation by the police or Children's Social Care Services is unnecessary, or the Strategy meeting or initial evaluation decides that is the case, the LADO should discuss the next steps with the Headteacher. In those circumstances the options open to the Trust depend on the nature and circumstances of the allegation and the evidence and information available and will range from taking no further action to disciplinary action, up to and including summary dismissal or a decision not to use the person's services in future. Such action will be taken in accordance with the Trust's Disciplinary Policy.



## **7.7 Referral to the LADO**

The LADO can be consulted at the initial stages of a disclosure or concern purely for advice. This in itself is not considered a referral to the LADO and will not be included in any employment references. The LADO will guide if this is something that warrants a referral action as part of a formal investigation. When making a referral to the LADO the headteacher will need to provide the below information:

- a) Details of the incident and context
- b) The child's details – name, date of birth, address, parent's details
- c) Member of staff's name, date of birth, address
- d) Any witnesses to incident and what they have said
- e) The past record of the member of staff, including any previous relevant concerns
- f) Any other current role the individual has with children, either voluntary or paid.

## **8. STRATEGY MEETINGS**

- 8.1 When an allegation has been referred to and is accepted by Children's Services, a Strategy Meeting will be convened as soon as practicable. The purpose of the Strategy Meeting is to consider the allegation or concern and decide on what action, if any, needs to follow. It is chaired by the LADO.
- 8.2 The member of staff who is the subject of the allegation will not be invited to the meeting. However, the member of staff should normally be informed of the outcome and whether the matter will be investigated. The time and form of that feedback will be agreed at the meeting and will take place as soon as possible after the meeting, unless prior knowledge may prejudice a police investigation.
- 8.3 Attendance at the Strategy Meeting, where possible, will include the following:
  - a) Local Authority Designated Officer (Chair)
  - b) Children's Social Care Services Team Manager or Social Worker
  - c) Police Public Protection Unit.
  - d) Headteacher (or Executive Headteacher or their representative, where the allegation is against the Headteacher).
  - e) The Trust's Human Resources Adviser, when the allegation is against the Headteacher or is so serious that it is likely to lead to a formal investigation and/or dismissal.
  - f) Representative of other Local Authorities where relevant, e.g. if the child is residing outside their 'home' authority in a residential school, foster placement, etc. or the staff member works in more than one authority or lives and works in different authorities.
  - g) Any other relevant professional who has information or professional expertise, which could assist the meeting, e.g. health professional.

### **8.4 Purpose of the Strategy Meeting**

The purpose of the strategy meeting is to:

- a) Consider the nature, content and context of the allegation and whether there has been previous allegations.
- b) Consider the risk to the child/other children within or outside the workplace.
- c) Determine the need for a child protection enquiry and/or criminal investigation (joint or single agency).
- d) Establish a clear action plan with timescales.
- e) Decide who to inform and when.

- f) Make recommendations as to whether suspension, disciplinary, competency, regulatory or complaint procedures be undertaken.
- g) Consider the need to inform other relevant parties and the need to prepare agreed media statements.
- h) Agree criteria for a re-referral if new evidence comes to light in any 'internal' procedure which suggests a further Strategy Meeting is needed.

#### **8.5 Outcome of the Strategy Meeting**

Following consideration of the allegation and other relevant information, the following courses of action may be agreed:

- a) no further action
- b) a Police investigation of a possible criminal offence
- c) enquiries and assessment by Children's Services Social Care about whether a child is in need of protection or in need of services
- d) an internal Trust investigation which may lead to guidance/training and/or disciplinary procedures.

#### **8.6 External Investigations**

Where the Police or Social Care are investigating an allegation, a Trust internal investigation is normally held in abeyance until the outcome is known. However, in consultation with the Police an internal investigation may be conducted in parallel.

### **9. MANAGING AN INTERNAL INVESTIGATION/ DISCIPLINARY PROCESS**

- 9.1 Following an external investigation being completed, or if the matter is not pursued by the Police or Children's Services Social Care, an allegation against a member of staff may require an internal investigation to determine whether disciplinary action is needed; such an investigation will take place under the Trust's Disciplinary Policy. The LADO will be available to provide support to the Headteacher throughout this process.
- 9.2 When an allegation is made against a member of staff, the possible risk of harm posed should be evaluated and managed. It may be necessary to consider whether the member of staff should be asked to refrain from work or suspended for the duration of the investigation. The individual may not be suspended until the headteacher has discussed the situation with the LADO and also the Trust's HR Advisor and undertaken the risk assessment contained in Appendix 3 of the Disciplinary Policy. Based on the assessment of risk, the following alternatives should be considered by the Headteacher before suspending a member of staff in these circumstances:
  - a) redeployment within the Trust on the individual's existing rate of pay so that the member of staff does not have direct contact with the child or children concerned; providing an assistant to be present when the member of staff has contact with children;
  - b) redeploying to alternative work in the Trust so the member of staff does not have unsupervised access to children;
  - c) moving the child or children to classes where they will not come into contact with the member of staff, making it clear that this is not a punishment and keeping parents informed. If this were to be the case, this would only be done after a thorough review of the possible impact on the child's education in order to minimise any possible detriment. The arrangement would be reviewed frequently;

- d) temporarily redeploying the member of staff to another role in a different location; or paid leave of absence; i.e. mutual agreement to refrain from work.

9.3 Where it is deemed there is no suitable alternative, suspension should only be considered on the following grounds:

- a) where a child or children are deemed to be at risk, or
- b) where suspension is necessary to ensure the investigation is not impeded or prejudiced, or
- c) where the allegation is of an exceptionally serious nature that dismissal for gross misconduct is a possible outcome.

The above considerations will be documented in the form provided at Appendix 3 of the Trust's Disciplinary Policy.

9.4 As with all investigations conducted under that policy, it may conclude that:

- a) no further action is required
- b) disciplinary action is not required but support or further training may be needed
- c) disciplinary action may be required. If this is the case then consideration will be given by the Headteacher of what support is needed by the individual; this may be the individual's trade union representative, but if the individual is not a member of a trade union, an appropriate workplace colleague will be agreed.

## **10. SUPPORT FOR COLLEAGUES**

10.1 It is recognised that allegations of abuse can cause distress for many involved, those witnessing alleged acts of abuse, those against who allegations are made and others in the workplace. Independent support for anyone who wants it is available through the Trust's employee assistance programme ([click here](#)); this includes free, independent, telephone and face to face counselling services. Another similar source of support is the Education Support service ([click here](#)).

## **11. SUPPLY, CASUAL OR VOLUNTEER WORKERS**

11.1 Where an allegation is made against someone with whom the Trust does not have an ongoing employment relationship e.g. relief or supply staff, volunteers or contractors, the Trust will act jointly with other organisations or service provider as required. It will be necessary to consider whether that person should be prevented from working in any Trust school until the outcome of the investigation is known. If the school is using an agency member of staff, it is critical that the agency is notified of the concerns and the potential action/investigation that the school is having to take.

## **12. COMMUNICATION WITH STAFF, GOVERNORS, PARENTS, CHILDREN AND THE MEDIA**

12.1 It is important that every effort is made to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated. Details of the complaint should not be discussed with members of staff or Governors, although the Headteacher may wish to inform the Chair of Governors that an allegation is being investigated.

12.2 Similarly, when an allegation concerns the Headteacher, the Executive Headteacher, or their representative investigating the matter should not inform or discuss the allegation with the full governing body, but will take advice from the nominated member of Human Resources. Where the allegation involves the Headteacher then the Executive lead of the school must be informed.

- 12.3 In all cases, consideration should be given to:
- 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.
- 12.4 The Education Act 2002 introduced reporting restrictions preventing 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). "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". This means that a parent who, for example, published details of the allegation on a social networking site would be in breach of the reporting restrictions, if what was published could lead to the identification of the teacher by members of the public.
- 12.5 If the parents or carers of a child or children involved are not aware of the allegation they should be advised of the allegation as soon as possible. In circumstances in which the Police or Social Care may need to be involved, the LADO will consult the relevant colleagues about how best to inform parents. In some circumstances the Trust may need to advise parents of an incident involving their child straight away, for example if a child has been injured whilst at school, or in a school related activity, and requires medical treatment. Parents/carers should be kept informed of the progress of the case and told the outcome where there is not a criminal prosecution. The deliberations of a disciplinary hearing and the information taken into account in reaching a decision, should not be disclosed.
- 13. FALSE, UNSUBSTANTIATED, OR MALICIOUS ALLEGATIONS (See Appendix 1 for definitions)**
- 13.1 The Headteacher/Police/Strategy Meeting may conclude, without or following an investigation, that an allegation is unsubstantiated. In this case the Headteacher in consultation with the LADO should:
- a) Inform the member of staff orally and in writing that no further action is being taken against them under child protection or disciplinary procedures.
  - b) Offer counselling and/or professional support to the member of staff, as appropriate.
  - c) Inform the parents of the child/ren of the allegation that it has been dealt with appropriately. Parents do not have the right to know the detail of any investigation.
  - d) Consider appropriate support for the person who made the allegations.
- 13.2 In the event that the allegation is made by someone external to the Trust, the Police should be asked to consider whether any action might be appropriate against the person responsible.
- 13.3 Discussions should take place on how to support the member of staff if the allegation was made by a child within the Trust. This may include moving classes and/or providing another adult to work in the class.
- 13.4 Pupils that are found to have made malicious allegations are likely to have breached Trust behaviour policies. The Trust should therefore consider whether to apply an appropriate sanction, which could include temporary or permanent exclusion (as well as referral to the police if there are grounds for believing a criminal offence, such as harassment, may have been committed).

#### **14. REFERRAL TO THE DISCLOSURE AND BARRING SERVICE (DBS) AND/OR NATIONAL COLLEGE FOR TEACHING AND LEADERSHIP**

- 14.1 If the allegation is substantiated and the person is dismissed, or the Trust ceases to use the person's services, or the person resigns or otherwise ceases to provide their services, the LADO should discuss with the Trust and its HR adviser whether a referral to the Disclosure and Barring Service (DBS) for consideration of inclusion on the barred lists or to the National College for Teaching and Leadership is required.
- 14.2 There is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child or if a person otherwise poses a risk of harm to a child. 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. Professional misconduct cases should be referred to the relevant regulatory body. The DBS will consider whether to bar the person from working in regulated activity, which will include work in schools and other educational establishments. The Trust has a statutory duty to make reports, and to provide relevant information to the DBS. Referrals should be made as soon as possible after the resignation or removal of the member of staff involved and within one month of ceasing to use the person's services. This is from the date of dismissal not the date of the appeal hearing. Human Resources will provide further details on this process, where applicable.

#### **15. RESIGNATIONS AND SETTLEMENT AGREEMENTS**

- 15.1 The fact that a member of staff tenders their resignation, or ceases to provide their services, must not prevent an allegation being followed up under these procedures. It is important that every effort is made to reach a conclusion and wherever possible, the member of staff is given the opportunity to answer the allegations and make representations before a conclusion is reached, but the process of recording the allegation and any supporting evidence and reaching a judgement about whether it can be substantiated on the basis of all the information available, should continue even if that cannot be done or the accused does not co-operate.
- 15.2 Settlement agreements, whereby a member of staff agrees to resign if the Trust agrees not to pursue disciplinary action and may agree a form of wording to be used in a future reference, will not be used where the person is the subject of an allegation. Any agreement would not in any event prevent a Police investigation, where appropriate, nor override the statutory duty to report the case to the DBS, where applicable.

#### **16. TIMESCALES**

- 16.1 It is in everyone's interests to resolve cases as quickly as possible without unnecessary delay, whilst enabling a fair and thorough investigation to take place. The time taken to investigate and resolve individual cases will depend on the seriousness and complexity of the investigation.
- 16.2 Keeping Children Safe in Education states that it is reasonable to expect that 80% of cases should be resolved within one month, 90% within three months, and all but the most exceptional cases should be completed within twelve months.

## **Cases Subject to Police Investigation**

- 16.3 Where a case is subject to Police investigation, the national safeguarding guidance states that wherever possible a review should take place no later than 4 weeks after the initial action meeting and if the investigation is still continuing, dates for subsequent reviews be set. However, staff need to be aware that allegations that require the forensic examination of computers, phones or other IT equipment is likely to take several months.
- 16.4 When the Police involvement is ended, the guidance recommends that all information which may be relevant to a disciplinary case should be passed to the employer. The Police investigating officer may need to seek authorisation before releasing documents and statements, which may delay the process. Where a conviction takes place the Police should also inform the employer. The LADO will liaise with the designated Police officer to obtain this information.

## **17. RECORD KEEPING**

- 17.1 It is important that a clear and comprehensive summary of the allegation and outcome (see Appendix 1) is kept on the member of staff's confidential personal file and a copy provided to the member of staff. This will ensure that accurate information is given in response to a future DBS Disclosure or a reference request and prevent unnecessary reinvestigation. The record should be retained at least until the member of staff has reached normal retirement age or for a period of 10 years from the date of the allegation, if longer.
- 17.2 Details of allegations that are found to have been malicious should be removed from HR records and this will be confirmed with the employee in writing.
- 17.3 The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on employment retention of records

## **18. REFERENCES**

- 18.1 Cases in which an allegation was proven to be false, unsubstantiated, 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. should also not be included in any reference. Cases which have progressed through the Trust's disciplinary process and sanctions issued as a result will be stated in employer references.

## **19. LEARNING LESSONS**

- 19.1 At the conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the Headteacher to determine whether there are any improvements to be made to the Trust's procedures or practice to help prevent similar events in the future. If there is an unsubstantiated conclusion then the Trust would also require the school's senior management team, alongside the Trust lead for safeguarding and HR advisor to look at any lessons learnt or enhancements to practice and process that may be required.

## Part Two

### 1. Managing low level concerns

- 1.1. This part of the policy will be followed when dealing with low level concerns raised in relation to members of staff, including supply staff, contractors or volunteers and may be adapted to each case as required. It will be used alongside the [academy/trusts] **complaints procedure, child protection and safeguarding policy, code of conduct and disciplinary procedure**.
- 1.2. Ebor Academy Trust promotes a culture in which all concerns about all adults working in or on behalf of the [academy/trust] (including supply teachers, contractors and volunteers) are addressed appropriately.
- 1.3. This policy is designed to:
  - a) promote and support a culture of openness and trust where staff are clear about the behaviours expected of themselves and their colleagues
  - b) ensure staff are comfortable to raise low-level concerns; and
  - c) provide for efficient and proportionate handling of those concerns

### 2. Recognising low level concerns

- 2.1. This policy will be used to manage 'low-level' concerns, defined in Part 4 of Keeping Children Safe in Education 2021 as any concern – no matter how small, and even if no more than causing a sense of unease or a 'nagging doubt' - that an adult working in or on behalf of the school or college may have acted in a way that:
  - a) is inconsistent with the staff code of conduct, including inappropriate conduct outside of work; and
  - b) does not meet the allegations threshold or is otherwise not considered serious enough to consider a referral to the Local Authority Designated Officer (LADO).
- 2.2. Examples of such behaviour could include, but is not limited to:
  - a) being over friendly with children;
  - b) having favourites;
  - c) taking photographs of children on their mobile phone;
  - d) engaging with a child on a one-to-one basis in a secluded area or behind a closed door; or
  - e) using inappropriate sexualised, intimidating or offensive language.

### 3. Sharing low level concerns

- 3.1 For our culture of openness and trust to prevail, all staff should share any low level concerns they have. Serious Case Reviews and Safeguarding Practice Reviews have often evidenced how low level concerns felt and/or expressed by staff relating to individuals who were later found to have sexually abused children at a school were not recorded. When they are not recorded, they cannot be reviewed or studied for patterns of behaviour.
- 3.2 To minimise and hopefully eradicate the risk of those opportunities being missed, it is critical that staff understand their role in identifying and reporting low level concerns.
- 3.3 All staff are encouraged to immediately report low level safeguarding concerns as defined in this policy so that the identified behaviours can be investigated and managed appropriately.

- 3.4 All low level concerns in relation to staff, supply staff, contractors or volunteers should be reported immediately to the Headteacher. Concerns about the Headteacher should be reported to the Executive Headteacher. If a concern is about a member of the Executive team then that concern would be raised with the CEO. Any concerns that may be in relation to the CEO would be reported to the Chair of the Trust.
- 3.5 The procedure for reporting low level concerns is consistent with that for reporting allegations of abuse as set out in part one of this policy. Staff do not need to determine whether their concern meets the threshold set out in part one of this policy or is a low level concern. The Headteacher or Trustees (as appropriate) will make this determination once the staff member has reported the issue.

#### **4. Responding to low-level concerns**

- 4.1 The Headteacher or Trustees (as appropriate) will review the concern to confirm that it is not a more serious issue that should be dealt with under part one of this policy. An issue reported as a low level concern would be dealt under part one of this policy where it meets the threshold set out in part one or there is a pattern of low level concerns expressed about the individual or wider staff practices generally. If necessary, the Headteacher or Trustees (as appropriate) will discuss the concern with the HR or the Safeguarding lead for the Trust. Where required the LADO will be consulted to determine whether it should be dealt with under part one of this policy.
- 4.2 The Headteacher or Trustees (as appropriate) will discuss the concern with the individual who raised it and will investigate it as appropriate.
- 4.3 Most low-level concerns are likely to be minor and can be dealt with by means of management support or additional training. Where necessary, action may be taken in accordance with the code of conduct and disciplinary procedure.
- 4.4 If the concern has been raised via a third party, the Headteacher or Trustees as appropriate will collect evidence by speaking directly to the person who raised the concern (unless it has been raised anonymously), the individual involved and any witnesses.
- 4.5 Where a low level concern is raised about a member of supply staff or a contractor, the concern will be shared with supply agency so they can take appropriate steps in accordance with their own policies and statutory guidance.

#### **5. Recording low-level concerns**

- 5.1 All low-level concerns will be recorded in writing and will include details of the concern, the context and action taken. The records will be kept confidential and held securely in accordance with the Data Protection Act 2018 and the UK General Data Protection Regulation.
- 5.2 Records of low-level concerns will be reviewed so potential patterns of concerning, problematic or inappropriate behaviour can be identified. If patterns are identified, the academy trust will decide on an appropriate course of action and will refer the matter to the LADO where the behaviour moves from a concern to meeting the threshold set out in the first part of this policy.
- 5.3 The record of the low-level concern will be kept at least until the person leaves our academy trust.



## **6. References**

Low level safeguarding concerns will not be included in references except where they have met the threshold for referral to the LADO and found to be substantiated, in which case they should be referred to in references.

## Low-Level Record of Concern Regarding A Staff Member

Please use this form to share any concern – no matter how small, and even if no more than a ‘nagging doubt’ – that an adult may have acted in a manner which:

- is not consistent with Ebor Academy Trust’s Code of Conduct, and/or;
- relates to their conduct outside of work which, even if not linked to a particular act or omission, has caused a sense of unease about that adult’s suitability to work with children.

Where possible please speak with the Headteacher as soon as possible. It is also helpful to document your concerns, which can be done using this form and then passed to the Headteacher. When completed, please pass this form to the Headteacher. If the concern is about the Headteacher, please pass it onto the Executive Headteacher (Email XXXX)

*Remember, a low-level concern is different to an allegation*

### **Allegation**

Behaviour which indicates that an adult who works with children 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 indicates they may pose a risk of harm to children.

### **Low-Level Concern**

Any concern – no matter how small, even if no more than a ‘nagging doubt’ – that an adult may have acted in a manner which:

- is not consistent with an organisation’s Code of Conduct, and/or
- relates to their conduct outside of work which, even if not linked to a particular act or omission, has caused a sense of unease about that adult’s suitability to work with children.

### **Appropriate Conduct**

Behaviour which is entirely consistent with the organisation’s Code of Conduct, and the law.

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**Name of adult writing this concern:**

**Name of adult whom this concern is about:**

**Date written:**

**Signature:**

**Please write your concerns below (continue overleaf)**

You should provide a concise record – including brief context in which the low-level concern arose, and details which are chronological, and as precise and accurate as possible – of any such concern and relevant incident(s) (and please use a separate sheet if necessary). Consider any contextual information that may be appropriate to know.

## **APPENDIX 1**

### **SUMMARY OF INVESTIGATION INTO AN ALLEGATION OF ABUSE**

**Name:**

**Establishment:**

#### **Explanatory Statement**

This statement is made in accordance with Keeping Children Safe in Education.

There is a requirement to keep a clear and comprehensive summary of allegations, how the allegation was followed up and resolved, and a note of any action taken and decision reached. This should be kept on a member of staff's confidential personal file, a copy provided to the person concerned and a copy held centrally by the LADO for Safeguarding Children in Education.

The purpose of this record is to enable accurate information to be given in response to any future request for a reference and will provide clarification in cases where a future DBS Disclosure reveals information from the Police about an allegation that did not result in a criminal conviction. It will also help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.

This record should be retained at least until the member of staff has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

**Summary of Allegation made, including date:**

**How allegation was followed up:**

**Outcome of investigation (see below):**

**Action taken and decisions reached:**

**Signed:**

**(Headteacher/Manager)..... Date .....**

**I have been fully informed of the investigation.**

**Signed:**

**(Member of staff)..... Date .....**

## Outcome of Allegations

The outcome of allegation investigations should be identified as one of the following:

(\* These definitions are taken from Part 4 of Keeping Children Safe in Education: Allegations of abuse made against teachers and other staff.)

Outcome Type	Definition	Action after investigation	Recording
Substantiated	There is sufficient evidence to prove the allegation.	Discussion with HR and/or other professionals, about referral to DBS and/or NCTL for Disciplinary Hearing	There should be a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached. This should be kept in the confidential personnel file of the accused, and a copy provided to the person concerned. The record should be retained at least until the accused has reached normal pension age or for a period of 10 years from the date of the allegation if that is longer.
False	There is sufficient evidence to disprove the allegation.	Where the allegation is found to be false, unsubstantiated, or malicious, the information should not be included in any reference.	As above
Unsubstantiated	This is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.	Where the allegation is found to be false, unsubstantiated, or malicious, the information should not be included in any reference.	As above
Malicious	There is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive.	Where the allegation is found to be false, unsubstantiated, or malicious, the information should not be included in any reference.	Details of allegations that are found to have been malicious should be removed from personnel records.

## **APPENDIX 2**

### **SUMMARY OF PROCESS AND OUTCOMES**

#### **Initial Consideration of an Allegation**

When an allegation is made to an adult:

- it should always be taken seriously
- what is said should be clarified not questioned
- a record should be made of what is said, using the actual words as far as possible
- where necessary, any immediate medical needs should be addressed
- the allegation must be reported immediately to the Headteacher (or Executive Headteacher, in the case of an allegation against the Headteacher)
- do not promise confidentiality but explain what will happen next.

#### **Initial Action by the Headteacher**

- Consult the LADO for Safeguarding Children in Education immediately who will advise on the appropriate course of action.
- Consider the facts as they have been presented.
- Collect any written accounts, if already available.

The Headteacher and LADO must consider the allegation and determine the appropriate way forward. The Headteacher should not investigate further or interview anyone and should not talk to any unauthorised person about the allegation.

The LADO will consider informing parents, informing the individual whom the allegation has been made against, and discuss the appropriate course of action with the Headteacher.

In some cases the Police may request that the member of staff against whom the allegation is made, is not told of the allegation in case their prior knowledge may prejudice a Police investigation. This should only occur following a serious allegation or an allegation involving the use of technology (e.g. laptop or mobile phone).

#### **Possible Outcomes**

In discussion with the Headteacher the LADO may recommend:

- An immediate referral to Children's Social Care Services through the usual referral routes, who may arrange a joint services Position of Trust Meeting.
- Further local enquiries to gather more information/clarification.
- The allegation may not constitute a child protection issue, but could be perceived as inappropriate behaviour by a member of staff warranting investigation by the Trust under disciplinary procedures. HR will advise on the process.
- The allegation was false or unsubstantiated, including a finding that reasonable force was used.