

The Mercian Trust

Managing Allegations of Abuse Against Staff Policy

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Contents

1. Introduction
2. Links with other policies or legislation
3. Suspension
4. Definitions for outcomes of allegation investigations
5. Procedure for dealing with allegations
6. Timescales
7. Specific actions Action following a criminal investigation or prosecution
8. Confidentiality
9. Record keeping
10. References
11. Learning Lessons
12. Appendices
Appendix 1 – Managing Allegations Against Staff

Introduction

1.1. The purpose of this policy and related procedures is to provide a clear and consistent approach for managing allegations made against members of staff. The Mercian Trust is committed to ensuring that its academies provide a safe learning environment for all its pupils. We recognise that the majority of people who work with children and young people do so from a position of care and concern, but evidence indicates that there are situations where this is not the case and procedures are therefore necessary to ensure that children and young people in our academies have as much protection as possible. The procedures that follow recognise the responsibility and vulnerability of education employees and provide guidance to The Mercian Trust academies on how to deal with any allegations or complaints made against a member of staff or volunteer in the school.

1.2. The purpose of this policy is therefore:

- to comply with Department for Education guidance (“Working Together to Safeguard Children 2018” and “Keeping Children Safe in Education 2018”) and any subsequent guidance.
- to provide a consistent and transparent approach to how allegations made against a member of staff will be dealt with.
- to establish a process which is fair to all employees.

1.3. All matters relating to allegations are dealt with under the trust’s child protection procedures and, therefore, confidentiality is essential. Information should be shared on a "need to know" basis only and all documentation should be carefully stored.

1.4. This policy covers all members of staff (regardless of their contract of employment), supply teachers and any volunteers who are engaged within the trust. The term ‘member of staff’ is used throughout this policy, but applies to individuals who are employed, or engaged in these capacities, including volunteers.

1.5. The trust has a duty of care towards its employees. Effective support will be provided for an employee facing an allegation and the trust will undertake to deal with the matter efficiently, fairly and consistently. This is to provide protection for the child as well as supporting the adult.

1.6. The trust has a legal duty to make a referral to the DBS where they think that an individual has engaged in conduct that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child.

2. Links with other policies or legislation

2.1. This policy links with terms and conditions of employment for all staff.

2.2. The Mercian Trust will treat all employees equally, in accordance with the Equality Policy.

2.3. This policy is underpinned by the principals of the Children’s Act, Education Act and Data Protection legislation (GDPR).

2.4. This policy links to the Staff Disciplinary policy, the complaint procedure and the suite of Child Protection and Safeguarding policies.

2.5. This policy is supported by the Staff Code of Conduct Policy and Child Protection training.

This policy applies to all cases in which it is alleged that a current member of staff or volunteer has:

- Behaved in a way that has harmed a child, or may have harmed a child, or
- Possibly committed a criminal offence against or related to a child, or
- Behaved towards a child or children in a way that indicates he or she would pose a risk of harm to children

It applies regardless of whether the alleged abuse took place in the Academy or Trust. Allegations against a teacher who is no longer teaching and historical allegations of abuse will be referred to the police.

We will deal with any allegation of abuse against a member of staff or volunteer very quickly, in a fair and consistent way that provides effective child protection while also supporting the individual who is the subject of the allegation.

Our procedures for dealing with allegations will be applied with common sense and judgement.

This policy should be read alongside our full Safeguarding Policy which lays out our full procedures.

3. Suspension

3.1 Suspension will not be the default position and will only be considered in cases where there is reason to suspect that a child or other children is/are at risk of harm, or the case is so serious that it might be grounds for dismissal. In such cases, we will only suspend an individual if we have considered all other options available and there is no reasonable alternative.

Based on an assessment of risk, we will consider alternatives such as:

- Redeployment within the Trust so that the individual does not have direct contact with the child or children concerned
- Providing an assistant to be present when the individual has contact with children
- Redeploying the individual to alternative work in the academy so that they do not have unsupervised access to children
- Moving the child or children to classes where they will not come into contact with the individual, making it clear that this is not a punishment and parents have been consulted
- Temporarily redeploying the individual to another role in a different location, for example to an alternative school or other work for The Mercian Trust.

4. Definitions for outcomes of allegation investigations

- Substantiated: there is sufficient evidence to prove the allegation
- Malicious: there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive
- False: there is sufficient evidence to disprove the allegation
- Unsubstantiated: there is insufficient evidence to either prove or disprove the allegation (this does not imply guilt or innocence)
- Unfounded: to reflect cases where there is no evidence or proper basis which supports the allegation being made

5. Procedure for dealing with allegations

5.1 In the event of an allegation that meets the criteria above, the Head Teacher (HT), and where the Head Teacher is the subject of the allegation the CEO, will take the following steps:

Immediately discuss the allegation with the designated officer at the local authority. (Designated Officer [previously LADO – a position within the Local Safeguarding Children Board whose role is to be involved in the management and oversight of allegations against people that work with children - Working Together to Safeguard Children (2018).

This is to consider the nature, content and context of the allegation and agree a course of action, including whether further enquiries are necessary to enable a decision on how to proceed, and whether it is necessary to involve the police and/or children's social care services. (The case manager may, on occasion, consider it necessary to involve the police before consulting the designated officer – for example, if the accused individual is deemed to be an immediate risk to children or there is evidence of a possible criminal offence. In such cases, the case manager will notify the designated officer as soon as practicably possible after contacting the police).

Inform the accused individual of the concerns or allegations and likely course of action as soon as possible after speaking to the designated officer (and the police or children's social care services, where necessary). Where the police and/or children's social care services are involved, the case manager will only share such information with the individual as has been agreed with those agencies.

Where appropriate (in the circumstances described above), carefully consider whether suspension of the individual from contact with children at the academy is justified or whether alternative arrangements such as those outlined above can be put in place. Advice will be sought from the designated officer, police and/or children's social care services, as appropriate.

If immediate suspension is considered necessary, agree and record the rationale for this with the designated officer. The record will include information about the alternatives to suspension that have been considered, and why they were rejected. Written confirmation of the suspension will be provided to the individual facing the allegation or concern within 1 working day, and the individual will be given a named

contact at the academy and their contact details. Suspension of a member of a staff is a neutral act without prejudice and should not be seen as disciplinary action. Members of staff who are suspended will remain on full pay.

If it is decided that no further action is to be taken in regard to the subject of the allegation or concern, record this decision and the justification for it and agree with the designated officer what information should be put in writing to the individual and by whom, as well as what action should follow both in respect of the individual and those who made the initial allegation.

If it is decided that further action is needed, take steps as agreed with the designated officer to initiate the appropriate action in the academy and/or liaise with the police and/or children's social care services as appropriate.

Provide effective support for the individual facing the allegation or concern, including appointing a named representative to keep them informed of the progress of the case and considering what other support is appropriate. Employee assistance support will be available to all staff.

Inform the parents or carers of the child/children involved about the allegation as soon as possible if they do not already know (following agreement with children's social care services and/or the police, if applicable). The case manager will also inform the parents or carers of the requirement to maintain confidentiality about any allegations made against members of staff (where this applies) while investigations are ongoing. Any parent or carer who wishes to have the confidentiality restrictions removed in respect of a teacher will be advised to seek legal advice.

Keep the parents or carers of the child/children involved informed of the progress of the case, where there is not a criminal prosecution.

Make a referral to the DBS where it is thought that the individual facing the allegation or concern has engaged in conduct that harmed or is likely to harm a child, or if the individual otherwise poses a risk of harm to a child.

The Trust will inform Ofsted of any allegations of serious harm or abuse by any person living, working, or looking after children at the premises (whether the allegations relate to harm or abuse committed on the premises or elsewhere), and any action taken in respect of the allegations. This notification will be made as soon as reasonably possible and always within 14 days of the allegations being made.

If the Trust/Academy is made aware that the secretary of state has made an interim prohibition order in respect of an individual, we will immediately suspend that individual from teaching, pending the findings of the investigation by the Teaching Regulation Agency.

Where the police are involved, wherever possible the case manager will ask the police at the start of the investigation to obtain consent from the individuals involved to share their statements and evidence for use in the Trusts disciplinary process, should this be required at a later point.

6. Timescales

6.1 Any cases where it is clear immediately that the allegation is unsubstantiated or malicious will be resolved as expediently as possible.

If the nature of an allegation does not require formal disciplinary action, we will inform the individual as soon as is reasonably possible.

If disciplinary action is required, we will follow the timescales set out within the trusts disciplinary policy.

7. Specific actions

Action following a criminal investigation or prosecution

The CEO/HT will discuss with the designated officer whether any further action, including disciplinary action, is appropriate and, if so, how to proceed, taking into account information provided by the police and/or children's social care services.

Conclusion of a case where the allegation is substantiated.

If the allegation is substantiated and the individual is dismissed or the academy ceases to use their services, or the individual resigns or otherwise ceases to provide their services, the case manager and the academy's HR Advisors will discuss with the designated officer whether to make a referral to the DBS for consideration of whether inclusion on the barred lists is required.

If the individual concerned is a member of teaching staff, the case manager and HR Advisors will discuss with the designated officer whether to refer the matter to the Teaching Regulation Agency to consider prohibiting the individual from teaching.

Individuals returning to work after suspension

If it is decided on the conclusion of a case that an individual who has been suspended can return to work, the case manager will consider how best to facilitate this.

The case manager will also consider how best to manage the individual's contact with the child or children who made the allegation, if they are still attending the academy.

Unsubstantiated or malicious allegations

If an allegation is shown to be deliberately invented, or malicious, the Head Teacher, or the CEO in the case of an allegation against the Head Teacher, will consider whether any disciplinary action is appropriate against the pupil(s) who made it, or whether the police should be asked to consider whether action against those who made the allegation might be appropriate, even if they are not a pupil.

8. Confidentiality

8.1 The academy will make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.

The case manager will take advice from the designated officer, police and children's social care services, as appropriate, to agree:

- Who needs to know about the allegation and what information can be shared
- How to manage speculation, leaks and gossip, including how to make parents or carers of a child/children involved aware of their obligations with respect to confidentiality
- What, if any, information can be reasonably given to the wider community to reduce speculation
- How to manage press interest if, and when, it arises

9. Record-keeping

9.1 The case manager will maintain clear records about any case where the allegation or concern meets the criteria above and store them on the individual's confidential personnel file for the duration of the case. Such records will include:

- A clear and comprehensive summary of the allegation
- Details of how the allegation was followed up and resolved
- Notes of any action taken, and decisions reached (and justification for these, as stated above)

If an allegation or concern is not found to have been malicious, the school will retain the records of the case on the individual's confidential personnel file and provide a copy to the individual. Where records contain information about allegations of sexual abuse, we will preserve these for the Independent Inquiry into Child Sexual Abuse (IICSA), for the term of the inquiry. We will retain all other records at least until the individual has reached normal pension age, or for 10 years from the date of the allegation if that is longer.

The records of any allegation that is found to be malicious will be deleted from the individual's personnel file.

10. References

10.1 When providing employer references, we will not refer to any allegation that has been proven to be false, unsubstantiated or malicious, or any history of allegations where all such allegations have been proven to be false, unsubstantiated or malicious.

11. Learning lessons

11.1 After any cases where the allegations are substantiated, we will review the circumstances of the case with the designated officer to determine whether there are any improvements that we can make to the Trust's procedures or practice to help prevent similar events in the future.

This will include consideration of (as applicable):

- Issues arising from the decision to suspend the member of staff
- The duration of the suspension

- Whether or not the suspension was justified

11.2 The use of suspension when the individual is subsequently reinstated. We will consider how future investigations of a similar nature could be carried out without suspending the individual

Appendix One

