

S24 Managing Allegations against Staff and Volunteers Policy



**Mill Ford
School**

Motivating For Success

Date of review: Summer 2018
Date to be reviewed: Summer 2019
Document Version: 3

Policy checklist

Is the policy from a good/outstanding source?

Does the policy reflect the good practice demonstrated in school?

Has the policy been cross referenced with up-to-date guidance?

Amendments:

Reference to Keeping Children Safe in Education added - 2018

Aims added - 2017

Font and layout – 2017

Procedures added – 2017

Confidentiality added – 2017

Record Keeping added – 2017

Policy Document

Introduction.

The Governing Body of Mill Ford School recognises its collective responsibility to safeguard and protect the welfare of children and young people in accordance with its statutory responsibility under Section 175 of the Education Act 2002 and where appropriate under the Children Acts 1989 and 2004.

Aim

The aim of this policy is to ensure that any allegation made against a staff member or volunteer 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.

Responsibility of the School.

Mill Ford will manage all allegations against staff and/or volunteers in accordance with the agreed South West Child Protection Procedures (www.swcpp.org.uk) and has a nominated 'Designated Person' who will liaise with the Local Authority Designated Officer (LADO) on all matters of concern which meet any of the following criteria:-

It appears that the person has:

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

In addition, these procedures will be used:-

- If there are concerns about the person's behaviour towards their own children, or children unrelated to their employment or voluntary work, and there has been a recommendation from a strategy discussion that consideration should be given to the risk posed to children they work with, or,
- When an allegation is made about abuse that took place some time ago and the accused person may still be working or having contact with children.

The School will not attempt to manage allegations or concerns which meet any of the above criteria through other mechanisms such as the school complaints procedure or disciplinary procedures, unless written agreement to do so has been confirmed by the Local Authority Designated Officer (LADO).

Mill Ford School will provide the Local Authority Designated Officer (LADO), the Police and Children's Social Care with any personal data/information about staff members, governors, children or parents which the said organisation(s) deem relevant to child protection enquires.

The school will attend all strategy meetings organised to discuss allegations made against staff and/or volunteers and will provide the meeting with any necessary reports as required.

Collective Responsibility of the Governing Body.

The Governing Body will appoint a nominated governor with responsibility for Child Protection who will monitor and review arrangements within the school for the delivery of Child Protection and in particular arrangements are in place for managing allegations against staff and volunteers.

The nominated governor with responsibility for child protection will have a number of specific duties and in particular will ensure that:-

- There is an annual agenda item at a full governing body meeting to discuss child protection issues and procedures, including training and the number of incidents (without any reference to names/details) etc.

The governing body will ensure that all members of staff and volunteers receive a copy of Part one of the DFE guidance document entitled "Keeping Children Safe in Education" and the date it is issued is recorded on staff personal files or volunteer records.

The Governing Body will ensure that school procedures are followed with regard to recording unusual incidents, issues or actions involving adults and children/young people which they feel may possibly be misconstrued at a later date.

Procedures

The person responsible for dealing with allegations against teachers and staff is the Headteacher (who is also the designated safeguarding lead). If the allegation is against the Headteacher, the person responsible is the Chair of Governors.

Mill Ford has a duty of care to our employees. We will ensure that we provide effective support for anyone facing an allegation and provide the employee with a named contact if they are suspended.

The person to whom an allegation or concern is first reported should treat the matter seriously and keep an open mind. They should not:

- Investigate or ask leading questions if seeking clarification
- Make assumptions or offer alternative explanations
- Promise confidentiality, but they can give assurance that the information will only be shared on a 'need to know basis'

They should:

- Make a written record of the information (where possible in the child's own words) including the time, date and place of incident/s, persons present and what was said

- Sign and date the written record and immediately report the matter to the Headteacher

The procedures for dealing with allegations need to be applied with common sense and judgment. When informed of a concern or allegation the allocated case manager - a member of the safeguarding team in school - should not initially investigate the matter or interview the member of staff, child concerned or potential witnesses. They should:

- Obtain written details of the concern/allegation, signed and dated by the person receiving (not the child/adult making the allegation)
- Record any information about times, dates and location of incident/s and names of potential witnesses
- Record discussions about the child and/or member of staff, any decisions made and the reason for these decisions

The Local Authority Designated Officer (LADO) should be informed within one working day. Referrals should not be delayed in order to gather information.

The purpose of an initial discussion is for the LADO and the case manager to consider the nature, content and context of the allegation and agree a course of action. It also alerts the LADO about cases that may also reach them via another route, for example, if the parent goes straight to the police or social care – allowing the LADO to have as full a picture as possible. To gain an overview the LADO may also want to know details of any previous complaints, any adult witnesses, any child witnesses, and noted injuries, any tensions between staff and parents and a clear idea of the time and location of when issues may have occurred.

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 manager and the LADO, and agreement reached as to what information should be put in writing to the individual concerned and by whom. The manager should then consider with the LADO what action, including possible disciplinary action, should follow in respect of the individual and those who made the initial allegation.

The case manager should inform the accused person about the allegation as soon as possible after consulting the LADO. It is extremely important that the case manager provides them with as much information as possible at that time. However where a strategy discussion is needed, or police or children's social care services need to be involved, the case manager should not do that until those agencies have been consulted.

If the allegation is not false and there is cause to suspect that a child is suffering or is likely to suffer significant harm, the LADO will immediately refer to children's social care and ask for a strategy discussion to be convened in accordance with the Working Together to Safeguard Children 2013.

Employers 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. An individual should only be

suspended if there is no reasonable alternative. Suspension should be considered only in a case where there is cause to suspect a child or other children at the school are at risk of harm or the case is so serious that it might be grounds for dismissal. Suspension should not be the default option but if used the reasons and justification should be recorded by the school and the individual notified of the reasons. The strategy meeting may advise a school to suspend but the actual decision will rest with the Headteacher or Chair of Governors.

If a strategy meeting takes place this will normally include the LADO or their representative, a child protection adviser from Children's services, a senior manager from the School, school's HR and depending on the circumstances the police and legal services. Other relevant individuals may be invited depending on the circumstances. If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take into account that teachers and other school staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour, to protect the health and safety of individuals.

Where the initial consideration or strategy meeting decides the allegation does not involve a possible criminal offence or require a children's services investigation it should be dealt with by the school. In such cases if the nature of the allegation does not require formal disciplinary action, appropriate action should be instituted within three working days. If a disciplinary hearing is required and can be held without further investigation the hearing should be held within 15 working days.

If the strategy meeting decides a Section 47 enquiry or police investigation is required any unilateral action by the school will need to be suspended, unless otherwise agreed, until their investigations are complete. Protocols for sharing information with a police or children's services investigation need to be agreed especially as a common outcome will be to refer the issue back to the school to consider as a disciplinary issue.

Where further investigation is required to inform consideration of disciplinary action the employer should discuss who will undertake that with the LADO. In some circumstances it may be appropriate for the disciplinary investigation to be conducted by a person who is independent of the employer or the person's line manager to ensure objectivity. In any case the investigating officer should aim to provide a report to the employer within 10 working days.

The following definitions should be used when determining the outcome 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. The term, therefore, does not imply guilt or innocence.

If a case is taken up by the Police and/or Crown Prosecution Service (CPS), the LADO and school should be informed straight away when a criminal

investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to continue to prosecute the case after person has been charged. In those circumstances the LADO should discuss with the Headteacher, and Chair of Governors whether any further action, including disciplinary action, is appropriate and, if so, how to proceed.

If the allegation is substantiated and the person is dismissed or the school ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the LADO should discuss with the school whether a referral to the Disclosure and Barring Service (DBS) for consideration of inclusion on the barred lists and /or (for teachers) to the Department of Education is necessary.

If an allegation is determined to be unsubstantiated or malicious, the LADO should refer the matter to the children's social care services to determine whether the child concerned is in need of services, or may have been abused by someone else. If an allegation is shown to be deliberately invented or malicious, the Headteacher should consider whether any disciplinary action is appropriate or whether the police should be asked to consider if action might be appropriate against the person responsible.

Confidentiality

It is extremely important that when an allegation is made, the school makes every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.

Mill Ford School will take advice from the LADO, police and local authority 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
- How to manage press interest if and when it should arise.

From 1st October 2012 the Education Act 2011 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. Basically the reporting restrictions apply until the point that the accused person is charged with an offence.

The Headteacher should inform the accused person about the allegation as soon as possible after consulting the LADO. The Headteacher should provide them with as much information as possible at the time. However, where a strategy discussion is needed, or police or local authority's social care services need to be involved, the Headteacher should not do that until those agencies have been consulted, and have agreed what information can be disclosed to the person.

Parents or carers of a child or children involved should be told about the allegation as soon as possible if they do not already know of it. However, where a strategy discussion is required, or police or local authority children's social care services need to be involved, the head should consult those agencies and agree what information can be disclosed to the parents. They should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but the parents or carers of the child should be told the outcome in confidence. Parents and carers should also be made aware of the prohibition on reporting or publishing allegations about teachers in section 141F of the Education Act 2002.

Resignations and Settlement Agreements

The fact that a person tenders his or her resignation or ceases to provide their services must not prevent an allegation being followed up in accordance with these procedures. By the same token settlement agreements, by which a person agrees to resign if the school agrees not to pursue disciplinary action, must not be used in these cases. A referral to the DBS must be made if the criteria are met.

References

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

Record Keeping

Details of allegations that are found to have been malicious should be removed from personnel records. However, for all other allegations, it is important that 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, is kept on a person's confidential personnel file, and a copy provided to the person concerned.

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

Review of Policy.

This policy will be reviewed on an annual basis.

Signed:..... Chair of Governing Body

Date:.....

Signed:..... Headteacher

Date:.....

Policy Document

