

Dealing with allegations against staff Policy



Thomas Keaney, CEO and Schools’ Proprietor

**Date of next formal review, September 2021**

This policy applies to all TCES Group schools and services



**INTRODUCTION**

Our aim is to provide a safe and supportive environment which secures the wellbeing and very best outcomes for the children we provide a service for. We do, however, recognise that sometimes allegations of abuse are made.

We recognise that allegations, when they occur, are distressing and difficult for all concerned. We also recognise that some allegations are genuine and that there are adults who deliberately seek to harm or abuse children.

**All staff need to know that:**

* Inappropriate behaviour with or towards children is unacceptable. This includes:
	+ any form of sexual conduct, including sexually suggestive comments;
	+ engaging in rough, physical or sexually provocative games;
	+ giving pupils inappropriate drugs or other inappropriate substances;
	+ lending or borrowing of money or property;
	+ giving or receiving gifts;
	+ exclusive or secretive relationships;
	+ giving of home numbers/personal mobile numbers or home address details to pupils;
	+ taking pupils/project users to a staff member’s home
* it is an offence for a person over 18, such as a teacher/TA, to have a sexual relationship with a child under 18 where that person is in a position of trust in respect of the child, even if the relationship is consensual and even if they do not work directly with them [Sexual Offences Act 2003];
* others who work with children and young people, such as drivers or workplace supervisors, and all agency staff are also expected to maintain standards of conduct comparable to those prescribed for colleagues in paid employment.

**Any member of staff receiving details of a suspicion or allegation should:**

* act with tact and care (always remembering to keep an open mind);
* listen and treat the concern seriously;
* communicate as appropriate to the age, understanding and any communication or language difficulties of the child/person reporting;
* avoid leading questions;
* avoid expressions of sympathy that may pre-judge issues of potential abuse;
* avoid any promise of confidentiality, but reassure the child/person reporting the concern that information will only be passed to those who ‘need to know’;
* be aware that the way in which they talk to a child can have an effect on the evidence which is put forward if there are subsequent criminal proceedings.

We will take all possible steps to safeguard our children and to ensure that the adults in our organisation are safe to work with children. We will always ensure that the statutory guidance outlined by [Working Together to Safeguard Children 2018](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/722305/Working_Together_to_Safeguard_Children_-_Guide.pdf) and [Keeping Children Safe in Education 20](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/830121/Keeping_children_safe_in_education_060919.pdf)20 are adhered to. We follow the local procedures for our area, [Chapter 7 of the London Child Protection Procedures](https://www.londoncp.co.uk/chapters/alleg_staff.html#role_emp) and will seek appropriate advice from the Designated Officer for the Local Authority (formerly known as LADO in previous versions of Working Together to Safeguard Children which this procedure will continue to use for ease of reference).

The Merton LADO (John Shelley) can be contacted to request a consultation or to make a referral via e-mail: lado@merton.gov.uk or by phone on 0208 5453187 / 07814642728.

If an allegation is made or information is received about any member of staff (or volunteer) who works in our setting or another setting who 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;
* Behaved in a way in their personal life that raises safeguarding concerns. These concerns do not need to directly relate to a child; or
* Behaved or may have behaved in a way that indicates they may not be suitable to work with children

the member of staff receiving the information should inform the Headteacher at the earliest opportunity. This includes concerns relating to agency and supply staff and volunteers. The Headteacher will also share the concerns raised with the Head of Safeguarding, Suzi Mellis on 0208 5459736.

Should an allegation be made against the Headteacher, this will be reported to the Head of Safeguarding. In the event that the Head of Safeguarding is not contactable on that day, the information must be shared with the CEO and Schools Proprietor, Thomas Keaney on 0208 5454960.

In addition, these procedures should be applied when there is an allegation that any person who works with children:

* Has behaved in a way in their personal life that raises safeguarding concerns. These concerns do not have to directly relate to a child but could, for example, include arrest for possession of a weapon;
* As a parent or carer, has become subject to child protection procedures;
* Is closely associated with someone in their personal lives (e.g. partner, member of the family or other household member) who may present a risk of harm to child/ren for whom the member of staff is responsible in their employment/volunteering.

**The Head Teacher, Head of Safeguarding or Schools Proprietor will:**

* seek advice from the LADO at the earliest opportunity (at least within one working day). No member of staff will undertake further investigations before receiving advice from the LADO.
* If it is outside of normal working hours and there is an immediate risk to a child, the local authority emergency duty team for children’s social care will be contacted. The LADO should be informed as soon as possible;
* An immediate risk assessment will be carried out; (this can be used to implement any interim measures in terms of the employee whilst any investigation process is in place and also further support any identified risks and appropriate actions in relation to the child along with relevant actions and timescales;

Any member of staff or volunteer who does not feel confident to raise their concerns within the Organisation should contact the LADO directly on 0208 8258155. Further national guidance can be found at: [Advice on whistleblowing](https://www.gov.uk/whistleblowing). The [NSPCC whistleblowing helpline](https://www.gov.uk/government/news/home-office-launches-child-abuse-whistleblowing-helpline) is also available for staff who do not feel able to raise concerns regarding child protection failures internally.

Staff can call: 0800 028 0285 – this line is available from 8:00am to 8:00pm, Monday to Friday or via e-mail: help@nspcc.org.uk.

If the matter does not require LADO oversight either due to it not being perceived to meet threshold for LADO oversight or following discussion with the LADO, it will be considered as an ‘concern’ to be investigated under the TCES Group Disciplinary Procedures.

**Outcomes Following an Investigation**

As an outcome to investigations that have been managed under these procedures, the following definitions will be used:

**Substantiated:**

There is sufficient evidence to prove the allegation that a child has been harmed or there is a risk of harm.

*If the facts of the incident are found to be true but it is not found that a child has been harmed or there is a risk of harm, then consideration should be given to deciding that the outcome is ‘unsubstantiated’ or ‘unfounded’.*

**Malicious:**

There is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive. The police should be asked to consider what action may be appropriate in these circumstances.

**False:**

There is sufficient evidence to disprove the allegation, however, there is no evidence to suggest that there was a deliberate intention to deceive.

*False allegations may be an indicator of abuse elsewhere which requires further exploration.  If an allegation is demonstrably false, TCES Group will, in consultation with the LADO, consider a referral to LA children's social care to determine whether the child is in need of services, or might have been abused by someone else*

**Unsubstantiated:**

There is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

**Unfounded:**

There is no evidence or proper basis which supports the allegation being made. It might also indicate 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.

**References in cases where the allegation is false, unsubstantiated or malicious**

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 false, unsubstantiated or malicious will also not be included in any reference.

**Record keeping in relation to the outcome of an investigation**

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 the confidential personnel file of the accused, 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 checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time. 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.

The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on record retention

**Referring to DBS**

The TCES Group has a legal duty to refer to the Disclosure and Barring Service (DBS) anyone who has harmed, or poses a risk of harm, to a child, or if there is reason to believe the member of staff has committed one of a number of listed offences, and who has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left. The DBS will consider whether to bar the person. If these circumstances arise in relation to a member of staff at our school, a referral will be made as soon as possible after the resignation or removal of the individual in accordance with advice from the LADO and/or HR.

Learning the lessons

At the conclusion of any case managed under these procedures, the Head of Safeguarding should review the circumstances of the case with the relevant involved individuals to determine whether any improvements can be made to the company’s, or the school or education project’s, practice or procedures to help prevent similar occurrences in the future.

All staff who have had an allegation made against them will be invited to a debrief session with the Head Teacher and/or Head of Safeguarding where a representative from HR may also be present.