



Dealing with allegations against staff (including low level concerns)

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DOCUMENT CONTROL

Who is this policy for?

All employees and volunteers working within or on behalf of the Trust, including supply staff and contractors

Author

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3

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| 1 | 1 November 2014 | Unknown | New guidance for Trust in consultation with JNC members |
| 2 | 1 May 2019 | H. Ruddle | Review of guidance in consultation with JNC members |
| 3 | 5 July 2023 | H. Ruddle | Review of guidance in consultation with JNC members to separate guidance into two parts and to include low level concerns |

1. INTRODUCTION

This policy applies to all employees and volunteers working within or on behalf of Delta Academies trust, including supply staff and contractors.

Reference to “Principal” throughout the policy means the Principal or Head of Academy within a school or in the case of the Trust's central team this means the Senior Head of Department.

Throughout the implementation of this policy, provision will be made for the individual to be accompanied to meetings by either a work colleague or a trade union representative. This is considered to support the process in the following ways:

- English may not be the individual's first language and a companion may be in a position to help facilitate the discussion.
- It may be necessary under the Equality Act 2010 as part of a reasonable access requirement for an individual with a disability.
- It can give the individual confidence.
- The work colleague or trade union representative may have experience of prior successful arrangements and knowledge of wider workforce practices.
- To ensure a fair and transparent process.

It is advisable to read the following Trust policies in conjunction with this policy (located on SharePoint), as other procedures may result from an allegation being made:

- Delta Disciplinary Policy
- Delta Grievance Policy
- Academy Child Protection and Safeguarding Policy
- Delta Staff Code of Conduct
- DfE Keeping Children Safe in Education
- DfE Working Together to Safeguard Children
- Delta Personal Data Retention Policy
- Delta Care, Support, Guidance and Behaviour Policy
- Delta Complaints Policy

It is also important to seek guidance from the Trust's Central HR team.

2. SCOPE

This guidance is intended to support the Trust in managing allegations that might indicate an individual may pose a risk of harm to children (part one) or in managing low level concerns that have been reported (part two).

PART ONE – ALLEGATIONS AGAINST STAFF

3. ALLEGATIONS THRESHOLD

The statutory guidance outlined in Keeping Children Safe in Education (KCSIE) outlines the allegations threshold which will be used in any case where it is suspected or alleged that an individual 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 will pose a risk of harm if they work regularly or closely with children.
- Behaved or may have behaved in a way that indicates they may not be suitable to work with children.

It should be noted that the fourth point above includes any concerns about behaviours that may have occurred outside of the workplace, towards their own children or other children, which might make an individual unsuitable to work with children (e.g., domestic violence).

It is vital that all allegations against staff are dealt with as quickly as possible in order to reduce the risk to the child(ren), minimise the impact on the child's academic progress, minimise the stress to the individual concerned and to ensure that a fair and thorough investigation takes place for all parties.

4. PROCEDURE

4.1. Reporting an allegation

All allegations made against an employee or volunteer working within or on behalf of Delta Academies Trust, including supply staff and contractors, must be reported to the Principal without delay. Where the allegation relates to the Principal, it must be reported to the Executive Principal/ELT Education Lead.

The Trust recognises that individuals may feel uneasy reporting concerns about the conduct of a colleague and the impact this could have if they have got it wrong. It is important that all staff remember that the welfare of the child is paramount, and they must report their concerns immediately.

The Principal will consider both the welfare of the child and the need to investigate and support the individual who is subject to the allegation. In all cases, the Principal will apply common sense and professional judgement, ensure allegations are dealt with quickly, fairly, and consistently and provide effective protection for the children as well as support for the individual subject to the allegation.

Where it appears that the allegations threshold has been met, the matter must be reported to the Local Authority Designated Officer (LADO) without delay to enable them to consult with relevant third parties as appropriate and carry out their role to ensure the matter is appropriately investigated.

Prior to contacting the LADO, the Principal must ensure that basic enquiries have been made to establish the facts to help determine whether there is any foundation to the allegation (including details of the child and the person who the allegation is made against). This information will be shared and discussed with the LADO and a decision reached on whether:

- More information is needed
- No further action is required
- A strategy meeting should take place (also referred to as an allegations management meeting)
- Immediate involvement of the police or social care is required

Where a strategy meeting is required, representatives from other agencies may be invited to attend which could include health, social care, and police.

The Principal should contact their Executive Principal/ELT Education Lead and the Trust central HR team to inform them of the allegation and relevant information relating to the case to date (e.g., guidance from the LADO). This information should also be shared with the Designated Safeguarding Lead (DSL) so they can carry out their role and ensure the appropriate support for the child(ren) is in place.

The Principal should inform the individual that an allegation has been made against them as soon as possible after discussing the matter with the LADO. Where other agencies need to be involved, the Principal may be asked to delay this conversation until those agencies have been consulted and an agreement is reached about what information can be shared with the individual.

Where a police investigation is required, the Trust may be asked to delay any internal investigation. This should be kept under regular review with the Trust central HR team.

Where an allegation is made against an individual who no longer works for or on behalf of the Trust, the matter should be referred to the police.

4.2. Investigation

The investigation would normally be carried out by a member of the school's leadership team. However, in some circumstances it may be more appropriate for the investigation to be carried out by someone from outside the school, from a different school within the Trust. In either case, the investigator will have completed the Trust's investigation training. In some cases, an external independent investigator will be appointed. This decision will be agreed at the earliest opportunity and on a case by case basis.

Prior to and during the investigation process, consideration must be made of any risks following the allegation being made. This may mean that a risk assessment should be completed, and regularly reviewed during the process, to manage any potential risks:

- If the individual remains in school and/or has contact with students during the investigation
- If the individual is distressed or exhibiting behaviour that may cause harm to themselves or others
- If the alleged victim(s) are in school

When determining the outcome of an investigation concerning allegations against an individual, the following definitions as outlined in Keeping Children Safe in Education (KCSIE) should be used:

- **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 or cause harm to the person subject to the allegation.
- **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.
- **Unfounded** – there is no evidence or proper basis which supports the allegation being made.

4.2.1. Investigations for supply staff or contractors

Where the allegation relates to a member of supply staff or a contractor, the Principal must still ensure the allegations are properly dealt with even though the individual is not an employee.

In no circumstances must the Principal stop using the individual due to safeguarding concerns without finding out the facts and consulting with the LADO to determine the most appropriate action. The relevant agency/employer must be informed and involved in the process. The Trust may still lead the investigation process due to them being best placed to gather the facts/evidence.

4.2.2. Investigations for volunteers (including AAB members, Trustees and Members)

Where the allegation relates to a volunteer, the Principal should follow normal procedures as outlined in this policy and other related policies. Where an allegation is substantiated, the Principal should follow procedures to consider removing the individual from their post. Where the substantiated allegation relates to a Trustee or Member, the Chair or Vice Chair of the Board would carry out this role.

4.3. Supporting those involved

4.3.1. Child(ren)

The welfare of the child(ren) is paramount. This will be the prime concern when investigating an allegation against an individual in a position of trust. The DSL is responsible for ensuring the child(ren) is not at risk and should refer to any cases of suspected abuse to children's social services.

In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's social services or the police should consider what support the child(ren) involved may need.

4.3.2. Individual subject to the allegation

The Trust has a duty of care to those who are working in or on behalf of the Trust whether they are in a paid or unpaid capacity. The Trust will manage and minimise the stress inherent in the allegations process wherever possible.

Support for the individual is vital to fulfil this duty. We will ensure they are informed of the allegations/concerns as soon as possible and likely course of action unless this is prevented by children's social services or the police. The Trust will advise the individual to seek support through their trade union or a colleague. They will also be reminded of the support services available to them via the Trust's Employee Assistance Provider (EAP) and Occupational Health as well as being provided with a named contact who

will stay connected with them throughout the process, regarding their health and wellbeing as well as providing any progress updates where possible.

4.3.3. Parents/Carers

Parents/Carers will be informed of the allegation their child(ren) has made or is involved in as soon as possible if they do not already know. However, where a strategy meeting is required or children's social services or police need to be involved, the Principal should not have this conversation until these agencies have been consulted and there is an agreement on what information can be shared with the parents/carers.

Deliberations and the outcome of a disciplinary process cannot be shared with parents/carers. Where parents have concerns regarding this, they should be raised through the Trust's Complaints Policy (available on the Trust's main website).

4.4. Confidentiality

The Trust will make every effort to ensure confidentiality throughout the process and guard against unwanted publicity while an allegation is being investigated or considered.

The Education Act 2002 introduced 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 Academy (where that identification would identify the teacher as the subject of the allegation). This applies to parents/carers as well as the press.

The Principal, in liaison with Delta HR, should take advice from the LADO, police and children's social services to agree:

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

4.5. Suspension

Suspension should only be considered in a case where there is cause to suspect a child is or children are at risk of harm, it is believed the continued presence of the individual might compromise the investigation, or the case is so serious that it may be grounds for dismissal.

Suspension will not be used as an automatic response when an allegation is reported. Depending on the nature of the case, it may be possible for alternative arrangements to suspension to be put in place so that the individual can continue working whilst the matter is investigated further.

Possible alternatives to suspension may reduce the initial impact of the allegation on an individual and could be (the list below is not exhaustive):

- Redeployment within the academy to remove direct contact with the child or children concerned
- Providing an assistant to be present with the individual when they have contact with children
- Redeployment to an alternative location within the Trust so the individual does 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 the parents/carers have been consulted

The Principal should take advice from the LADO, police, children's social services, Executive Principal/ELT Education Lead and Delta HR prior to deciding on whether suspension is the most appropriate action or whether action short of suspension can be taken.

Police involvement does not always mean that the individual will have to be suspended from their role. Information from the police should be considered by the Principal along with information from other agencies as part of their assessment of the risks.

The final decision regarding suspension is that of the Principal, following consideration of the views of all relevant parties outlined above.

In cases where the Principal is made aware that the Secretary of State has made an interim prohibition order in respect of an individual employed in the Trust it will be necessary to immediately suspend the person from teaching pending the findings of the Teaching Regulation Authority (TRA) investigation.

Where it is determined that suspension is the most appropriate course of action, the Trust will carry this out in line with the Trust's Disciplinary Policy. Written confirmation will be provided to the individual within one working day and will outline as much detail as possible for the reasons for the suspension and why an alternative to suspension is not appropriate.

It is not appropriate for an individual who has been suspended to be without any support. The individual will be informed of their point of contact during any period of suspension and provided with their contact details.

Individuals will not be prevented from social contact with colleagues and friends unless there is evidence to suggest that this may prejudice the gathering of evidence.

4.6. Resignations

If the individual who has an allegation raised against them resigns from their post, or ceases to provide their services to the Trust, prior to the case being resolved, this should not prevent an allegation being followed up in accordance with this guidance.

A referral to the TRA and/or the Disclosure and Barring Services (DBS) must be made if the criteria have been met.

In such cases, it is not appropriate for the Trust to reach a settlement agreement with the individual. Any agreement which prevents the Trust from making a referral when the criteria are met would likely result in a criminal offence being committed as the Trust would not be complying with its legal duty to make the referral.

It is important for every effort to be made to reach a conclusion in all cases of allegations bearing on the safety and welfare of children, including any in which the individual concerned refuses to cooperate with the process. Wherever possible, the individual should be given a full opportunity to answer the allegation and respond to it.

The process of recording the allegation, 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 the accused does not cooperate. It may be difficult to reach a conclusion in such circumstances, and it may not be possible to apply any disciplinary sanction if an individual's notice period expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

4.7. Record keeping

Where an allegation is found to be malicious or false, it will be removed from the personnel record of the individual concerned.

For all other allegations, the following information will be retained in their personnel file:

- Clear and comprehensive summary of the allegation
- Details of how the allegation was followed up and resolved
- Note of any action taken and decisions reached

A copy of this information should also be provided to the individual concerned, where this is agreed with children's social care or the police.

The purpose of this record is to enable accurate information to be provided in response to any future reference requests 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 may help to prevent unnecessary re-investigation if an allegation resurfaces after a period of time, as sometimes happens.

Records should be retained at least until the individual has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer, in line with the Trust's Personal Data Retention Policy and the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR).

4.8. References

Allegations that have not been substantiated, were false, unfounded, or malicious, will not be included in a reference.

Where an allegation has been substantiated, this will be referred to in a reference.

4.9. Action on conclusion of case

Where the investigation is against a supply member of staff or contractor, the outcome of the investigation should be shared with the LADO and the individual's employer (i.e., the supply agency or the contractor).

4.9.1. Criminal investigation or prosecution

The police should inform the Trust and LADO immediately when a criminal investigation and any subsequent trial has been completed, or if it is decided to close an investigation without charge or not to continue with a prosecution after the individual has been charged.

In such circumstances, the Principal should discuss with the LADO whether any further action is appropriate (e.g., disciplinary action) and if so, how best to proceed. The information provided by the police and/or children's social care services should be used to inform this decision. Options available will depend on the circumstances of the case and consideration will need to take into account the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

4.9.2. Consideration of referral to DBS/TRA

If the allegation is substantiated and the employee is dismissed or resigns, or their services as a volunteer, supply member of staff or contractor ceases as a result of the allegation, the Trust will consider whether a referral must be made to the DBS and/or the TRA as appropriate.

There is a legal requirement for the Trust to make a referral to the DBS (and for teaching staff, the TRA) where it is considered that the individual has engaged in conduct that has harmed or is likely to harm a child, or if a person otherwise poses a risk of harm to a child.

4.9.3. Returning to work

If the individual will return to their role following a period of suspension, provisions will be put in place to ensure that this return is as smooth as possible. Depending on the individual's circumstances, this may involve a phased return over a set period of time, and/or they may be provided with a colleague to provide support for them during this period of settling back into work.

The Principal must also consider how the individual's contact with the child(ren) or employee/volunteer (if this detail becomes known) who made the allegation can be best managed if they are still at the academy.

The Principal should also consider and discuss with the individual what communication will be shared with staff in the academy regarding their absence from work during the period of suspension.

4.9.4. Malicious or false allegations

If an allegation is determined to be malicious or false, the Principal may refer the case to children's social services in consultation with the LADO to determine whether the child needs support or has been abused by someone else.

The Trust's Care, Support, Guidance and Behaviour (CSGB) Policy clearly outlines the action that may be taken against pupils who are found to have made malicious or false allegations against staff. The Principal may consult with the Executive Principal/ELT Education Lead when considering what action to take.

If the allegation was made by a person who is not a pupil or member of staff in the Trust, the Principal may pass the information to the police who may take further action against that person.

4.9.5. Learning lessons

Regardless of the outcome of the case, the Trust will review the case to see if there are any improvements that can be made to practices or policies that may help to deal with cases in the future.

4.10. Non recent (historical) allegations

Where an adult discloses to the Trust that they were abused as a child, they will be advised to report this to the police.

Non-recent (historical) allegations made by a child will be reported to the LADO in line with the Local Authority procedures for dealing with non-recent allegations.

PART TWO – LOW LEVEL CONCERNS

5. LOW LEVEL CONCERNS

The procedure for dealing with low level concerns raised in relation to any member of staff within the Trust (including volunteers, supply staff and contractors) depends on the situation and circumstances surrounding the concern.

A low level concern is referred to within the statutory guidance, Keeping Children Safe in Education (KCSIE) and the Trust will act in compliance with this and the Academy's Child Protection and Safeguarding Policy where it is relevant.

As outlined in the Trust's Staff Code of Conduct, the Trust encourages any concerns about adults working in or on behalf of the Trust, including those that don't meet the threshold, to be shared openly and responsibly with the Principal, Designated Safeguarding Lead (DSL), the Deputy DSL or a member of the Senior Leadership Team who will ensure this is dealt with appropriately.

This approach is designed to:

- Ensure those working for and on behalf of the Trust are clear about behaviours expected of themselves and others
- Ensure individuals feel comfortable to raise low level concerns
- Identify and address concerning, problematic or inappropriate behaviour at the earliest opportunity
- Provide efficient and proportionate handling of concerns raised

5.1. Recognising low level concerns

A low level concern does not mean the concerns are not significant, only that they do not meet the threshold outlined in KCSIE. No matter how small, or even if they are just causing a sense of unease or doubt that an adult is working in the Trust or on behalf of the Trust and may have acted in a way that:

- Is inconsistent with the Trust Staff Code of Conduct, including inappropriate conduct outside of work
- Does not meet the allegations threshold or is otherwise not considered serious enough to consider a referral to the LADO

Some examples of this behaviour could be, but is not limited to:

- Being over friendly with children
- Having favourites
- Engaging with a child on a one-to-one basis in a secluded area or behind a closed door
- Using inappropriate sexualised, intimidating, or offensive language

5.2. Self-referral

The Trust encourages individuals to feel confident to self-refer where they have found themselves in a situation which could be misinterpreted, might appear compromising to others, and/or on reflection they believe they have behaved in a way that they consider falls short of the expected standards.

5.3. Sharing low level concerns

All staff, including those working on behalf of the Trust, should share any low level concerns they have. Numerous serious case reviews and safeguarding practice reviews have shown how low level concerns from staff relating to individuals were not recorded, had not been acted upon and were later found to have sexually abused children at a school. If low level concerns are not recorded, they cannot be reviewed or studied for patterns of behaviour.

In order to reduce or remove the risk of these opportunities being missed, it is critical that staff understand their role in identifying and reporting low level concerns.

All staff are encouraged to report low level concerns including conduct and behaviour of colleagues so that they can be investigated and managed appropriately. The welfare of the child is paramount so concerns must be reported immediately. Staff are reminded that even if they think it is too late to share a low level concern, they are encouraged to do so at the earliest opportunity.

The process for reporting low level concerns is deliberately the same as for reporting allegations of abuse as set out in part one of this guidance. Staff do not therefore need to worry about whether their concern meets the threshold or is a low level concern. The Principal will make this determination once the concern has been reported.

5.4. Responding to low level concerns

The Principal will review the concern to confirm that it is not a more serious issue that has met the threshold and should therefore be reported to the LADO. There may be cases that the Principal discusses with the LADO in order to determine whether it should be addressed as an allegation rather than a low level concern and/or to clarify if the LADO has information to share.

The Principal will discuss the concern with the individual who raised it and will ensure it is investigated appropriately.

Most low level concerns can be dealt with by means of management support or additional training. Where necessary, action may be taken in accordance with the Trust's Disciplinary Policy. Very few allegations, whether determined low level concerns, are malicious or false.

If the concern has been raised by a third party, the Principal will gather as much evidence as possible by speaking directly to the person who raised the concern (unless it has been raised anonymously), to the individual concerned and any witnesses.

Where a low level concern is raised about a member of supply staff or contractor, the concern will be shared responsibly with the supply agency/contracting firm so they can take appropriate action in line with their own policies and statutory guidance.

5.5. Recording low level concerns

All low level concerns will be recorded in writing to outline the following information:

- Clear and comprehensive summary of the concern
- Details of how the concern was followed up and resolved
- Note of any action taken and decisions reached

The records will be kept confidential and held securely on the individual's personnel record in accordance with the Data Protection Act 2018 and the UK GDPR, and in line with the Trust's Personal Data Retention Policy.

Records of low level concerns will be reviewed regularly so that potential patterns of concerning, problematic or inappropriate behaviour can be identified. If such

patterns are identified, the Principal will decide on an appropriate course of action, including reconsidering the allegations threshold outlined in section 3 and will refer the matter to the LADO for further advice on how to proceed.

5.6. References

Low level concerns will not be included in references except where they have met the threshold for referral to the LADO and are found to be substantiated. In such cases, they will be referred to in a reference in response to the relevant questions asked.

6. MONITORING AND REVIEW

Through monitoring and review, the Trust will ensure:

- Individual records will be treated as confidential
- Consistency of application and adherence to equality legislation
- An Equality Impact Assessment is completed

This policy will be reviewed every three years, or when there are changes to relevant legislation, by the Trust in consultation with the recognised Trade Unions.

APPENDIX A – STAFF LOW LEVEL CONCERN LOG



Staff Low Level Concern Log

Please tick one of the following:

Informal Concern ☐

Formal Complaint ☐

Staff member: (who the concern is with reference to) _____

Staff member: (with the concern/making the complaint) _____

Are you happy for your name to be shared with the staff member this log is relating to Y N

Date: _____

Nature of concern: (inappropriate language, unprofessional behaviour)

Outline of incident: (continue on additional sheets if necessary)

Preferred/Expected Outcome: (what actions would you like SLT to take)

DSL/ SLT Actions:

Signed:

Date handed to DSL/ SLT for filing:

DSL/ SLT Head additional comments/actions:

Signature of Principal

Date: