

THOMAS HARDYE SCHOOL

Dealing with allegations against a member of staff, supply teacher, volunteer or contractor



Adopted By:	Local Governing Body
Signed:	Chair of Governors – A.Moore <i>A.N. Moore</i>
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THE THOMAS HARDYE SCHOOL

DEALING WITH ALLEGATIONS OF ABUSE AGAINST MEMBERS OF STAFF AND VOLUNTEERS

1 INTRODUCTION

1.1 All children and adults have a fundamental right to be protected from harm.

1.2 The Governors of have a duty to safeguard and promote the welfare of children and create and maintain a safe learning environment (section 175 of the Education Act 2002). Schools should identify where there are child welfare concerns and take action to address them, in partnership with other organisations where appropriate, and in accordance with local inter-agency procedures.

1.3 School staff have a positive role to play in child protection, as their position often allows them to be able to observe outward signs of abuse and changes of behaviour in children, *as documented in The Thomas Hardy School Child Protection Policy.*

1.4 Because of their role however, they are also open to accusations of abuse. Such allegations may be true, but they may also be false, misplaced or malicious.

1.5 To fulfil its commitment to the welfare of children, The Thomas Hardy School has a procedure for dealing with allegations of abuse against members of staff and volunteers.

1.6 The procedure aims to ensure that all allegations are dealt with fairly, consistently and quickly and in a way that provides protection for the child, whilst supporting the person who is the subject of the allegation.

1.7 In the event that a member of staff does not wish to report an allegation directly, or they have a general concern about malpractice within The Thomas Hardy School reference can also be made to the *Whistle blowing policy.*

1.8 The procedure complies with the framework for managing cases of allegations of abuse against people who work with children, as set out in relevant guidance and in the local inter-agency procedures. The procedure has been agreed following consultation with the recognised trade unions.

1.9 The policy should be read in conjunction with *Whistleblowing Policy and Staff Code of Conduct.*

1.10 A summary of the procedure can be found at Appendix A to this document.

2 SCOPE

2.1 The procedure applies to all adults employed by the school or all adults volunteering in the school.

2.2 The procedure is recommended to all school Governing Bodies for adoption.

2.3 The Local Authority will not accept liability for any actions, claims, costs or expenses arising out of a school's decision not to follow this recommended procedure, where it is found that the school's Governing Body has been negligent or has acted in an unfair or discriminatory manner.

3 GENERAL PRINCIPLES

3.1 The following procedure should be used in respect of all cases in which it is alleged that a member of staff or a volunteer in the school 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 s/he is unsuitable to work with children.
- behaved or may have behaved in a way that may indicate they are unsuitable to work with children regardless of involvement of children. Transferrable risk and associated triggers must be considered. An example would be a member of staff is involved in an incident of domestic violence at home.

3.2 In addition, the procedure also applies if a concern arises about a member of staff in his/her private life which indicates that they may be unsuitable to work with children.

3.3 It is imperative that everyone who deals with allegations of abuse maintains an open and enquiring mind. Even allegations that appear less serious must be followed up and taken seriously. The procedure aims to provide effective protection for the child and support for the person who is the subject of the allegation.

3.4 Timescales

3.4.1 It is in everyone's interests to resolve cases as quickly as possible, consistent with a fair and thorough investigation and avoid unnecessary delay. Indicative timescales for each stage of the process are set out in section 4. However, it is recognised that the time taken to investigate and resolve individual cases may depend on a variety of factors, including the seriousness and complexity of the case.

3.5 Confidentiality

3.5.1 Whilst an allegation is being investigated, every effort should be made to maintain confidentiality (*see The Thomas Hardy School Data Protection Policy, Freedom of Information Policy and Privacy Statement*). It might be necessary however, for staff to be informed so far as is necessary, particularly in the case of allegations involving Headteachers.

3.5.2 Consideration will also need to be given as to whether to make a brief statement to parents of children in the school to provide an element of reassurance and to continue to provide information throughout the investigation.

3.5.3 The police will not normally provide any information to the press or media that might identify an individual, unless or until the person is charged with a criminal offence.

3.6 Information Sharing

3.6.1 During an initial evaluation of the case, or strategy discussion (see section 4.3.4), the agencies concerned should share all the relevant information that they have about the person who is the subject of the allegation and about the alleged victim.

3.6.2 If applicable and where possible, the police and children's services social care should obtain consent from the individuals concerned to share the statements and evidence they obtain during the course of their investigations with the school for disciplinary purposes. This should be done as the investigation proceeds rather than after it is concluded. When

considering further action, schools should therefore take account of any relevant information obtained in the course of those enquiries.

3.7 Suspension

3.7.1 Suspension should not be seen as an automatic response to an allegation. A person must not be suspended without careful consideration, taking into account the seriousness and plausibility of the allegation and the risk of harm to the pupil concerned. Suspension should therefore be intended as a safeguard for both the child making the allegation and the member of staff against whom the allegation has been made.

3.7.2 In general, suspension should only be considered in any case where there is cause to suspect a child is at risk of significant harm, it is necessary to allow any investigation to continue unimpeded or is so serious that if proven it might be grounds for dismissal.

3.7.3 The power to suspend is vested in the Headteacher/governing body. However, it would be appropriate for the views of the police/children's services social care to be canvassed prior to any final decision being made as to whether to suspend a member of staff. In any event, suspension should only follow after discussion with the Local Authority Designated Officer (LADO) /HR Officer.

3.7.4 If the initial suspension meeting takes place prior to the strategy discussion, care should be taken in relation to the amount of information given to the member of staff.

3.7.5 Schools should also consider whether the result that would be achieved by suspension could be achieved by alternative arrangements, such as paid leave of absence, additional supervision, undertaking different duties at school or at home.

3.7.6 A decision to suspend can be made at any stage during the investigation process, reviewed in the light of new evidence and should be carried out in accordance with the procedure set out in The Thomas Hardy School Disciplinary Policy.

3.7.7 Suspension or alternative measures should be in place for as short a length of time as possible and if it is agreed that a member of staff is to return to work, careful planning needs to take place to ensure the situation is managed as sensitively as possible.

3.8 Records

3.8.1 It is important that a clear and comprehensive summary recording the outcome of any allegations is kept on a person's file and a copy provided to the individual.

3.8.2 All documents relating to an investigation must be retained until at least the person has reached normal retirement age or for a period of 10 years from the date of the allegation, if that is longer. This includes all allegations, even if unfounded or malicious (refer to definitions at Appendix B). This enables accurate information to be given in response to any future request for a reference and will help provide clarity where a future CRB disclosure reveals police information that an allegation was made but did not result in a prosecution or conviction. Such a record also serves to protect the employee from unnecessary re-investigation if allegations resurface after a period of time.

3.8.3 Some cases must be reported to the DCSF for consideration of including the person on List 99 or consideration by the General Teaching Council (GTC)¹. (see Step 5, Referral).

¹ Please note that List 99 is to be abolished in 2008 and replaced by a vetting and barring scheme.

3.8.4 A copy of the allegation should also be placed on the pupil's file, together with a written record of the outcome.

3.9 Support

3.9.1 Parents or carers of a child or children involved should be told about the allegation as soon as possible (with the proviso of 4.2.3). They should also be kept informed about the progress of the case, including suspension and told the outcome where there is not a criminal prosecution. This also includes the outcome of any disciplinary process.

3.9.2 In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's services social care or the police as appropriate, should also consider what support the child, children and their parents may need.

3.9.3 The school should keep the person who is subject of the allegations informed of the progress of the case and consider what other support is appropriate, such as making them aware of the Staff Counselling Service where appropriate. If the person is suspended, they should be kept informed about developments at the school. Social contact with colleagues and friends at the school should not necessarily be precluded.

3.9.4 A Guidance leaflet (see Appendix 1 of the toolkit) will be made available to all staff who are facing an allegation of child abuse. It would also be appropriate for schools to ask the individual whether welfare counselling or the support of a medical adviser (Occupational Health) would be beneficial.

3.9.5 Depending on the circumstances of the alleged abuse, support for others at the school, both staff and pupils might also need to be considered.

3.9.6 If the allegations are unfounded and no action is to be taken against the member of staff, the Head/Chair of Governors should still consider whether counselling and/or informal professional advice might be appropriate for all parties, to help rebuild confidence where necessary. Phased return on full pay for the member of staff could be considered and/or the provision of a mentor. A meeting with the employee and their union representative to discuss such matters would also be helpful.

3.10 Resignations

3.10.1 The fact that a person tenders their resignation must not prevent an allegation being followed up in accordance with the procedure outlined at section 4.

3.10.2 It is important that every effort is made to reach a conclusion in all cases, including any in which the individual concerned refuses to co-operate with the process.

3.10.3 Compromise agreements must not therefore be used in any allegation cases.

3.11 Oversight and Monitoring

3.11.1 The LADO has overall responsibility for the oversight of the procedures for dealing with allegations, and will provide advice and guidance to schools, as appropriate.

3.11.2 The LADO will also monitor the progress of cases and liaise with the police and other agencies to ensure that cases are dealt with as quickly as possible, consistent with a fair and thorough process.

3.11.3 The contact details for the designated LADO are set out at Appendix B of this document.

3.11.4 HR will work with the LADO to ensure the appropriate application of this procedure and will provide specific advice in cases of formal disciplinary action.

4 PROCEDURE

4.1 Step 1: Reporting of Allegations

4.1.1 All allegations should be reported to the Headteacher immediately, unless the allegation is about the Head in which case it should be reported to the Chair of Governors, or the Vice/Deputy Chair in the Chair's absence.

4.1.2 A written, dated record must be made by the Headteacher/Chair of Governors of the allegations as soon as practicable, but within **24 hours**.

4.1.3 The Headteacher (or Chair of Governors) must use the harm threshold descriptors below to decide how to proceed with the allegations:

- Behaved in a way that has harmed a child, or may have harmed a child and/or;
- Possibly committed a criminal offence against or related to a child and/or;
- Behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children and/or;
- Behaved or may have behaved in a way that indicates they may not be suitable to work with children

4.1.4 Where appropriate an assessment of transferable risk to children with whom the person works should be undertaken. If in doubt, seek advice from the local authority designated officer (LADO). If the allegation does not meet the harm threshold it should be dealt with as a Low Level concern.

4.1.5 The LADO should be informed of all the allegations that meet the harm threshold so that they can consult the police and children services social care colleagues as appropriate. If the allegation falls under the remit of 3.1 above, the case should be reported to the LADO on **the same day**, where practicable.

4.1.6 The LADO should also be informed of any allegations that are made directly to the police or children's services social care.

4.1.7 The Headteacher/Chair of Governors should not investigate the allegation at this stage. However, serious consideration will need to be given as to whether it is appropriate to suspend the individual concerned (reference 3.7).

4.2 Step 2: Informing relevant parties

4.2.1 The Headteacher/Chair of Governors should inform the accused person about the allegation as soon as possible **after** consulting the LADO and subject to 4.2.3 below. If the person is a member of a union or professional association, they should be advised to contact that organisation.

4.2.2 If the parents/carers of the child concerned are not already aware of the allegation, the LADO should also discuss with the Head/Chair of Governors how and by whom they should be informed.

4.2.3 However, where a strategy discussion is needed, or the police or children's services social care need to be involved (see 4.3.4 below), the Headteacher should not inform the

relevant parties until those agencies have been consulted and agreed what information can be disclosed.

4.3 Step 3: Initial Evaluation

4.3.1 There may be up to 3 strands in the consideration of an allegation:

- a police investigation of a possible criminal offence;
- enquiries and assessment by children's services social care about whether a child is in need of protection or in need of services;
- consideration by the school of disciplinary/capability action in respect of the individual.

4.3.2 The LADO should discuss the matter with the Headteacher/Chair of Governors, establish that the allegation is within the scope of these procedures and where necessary, obtain further details of the allegation and the circumstances in which it was made.

4.3.3 Consideration should also be given as to whether any other children may be likely to be at risk, in the light of the allegation and whether it might be necessary to review any previous allegations made.

4.3.4 If there is cause to suspect that a child is suffering or is likely to suffer significant harm, the LADO will contact children services social care and ask for a strategy discussion to be convened straight away. The focus of this discussion will be on the needs of the child or children who may be at risk.

4.3.5 The strategy discussion should include the LADO, HR and the Headteacher/Chair of Governors and take account of information that the school can provide about the circumstances or context of the allegation and the pupil and member of staff concerned.

4.3.6 If the 'threshold of significant harm' has not been reached, but a police investigation might be needed, the LADO should conduct a similar discussion with the police, school and other agencies to evaluate the allegation and decide how best to deal with it.

4.3.7 If the allegation is about physical contact, the strategy discussion or initial evaluation should take account of the fact that teachers and other school staff are entitled to use reasonable force to control or restrain pupils in certain circumstances (see also The Thomas Hardy School Code of Conduct).

4.3.8 However, the police must always be consulted about any case in which a criminal offence may have been committed.

Dealing with a Low-Level Concern

4.3.9 The term 'low-level' concern does not mean that it is insignificant, it means that the behaviour towards a child does not meet the threshold set out at 4.1.3.

4.3.10 A low-level concern is 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:

- Is inconsistent with the staff code of conduct, including inappropriate conduct outside of work and;
- Does not meet the allegations threshold or is otherwise not considered serious enough to consider a referral to the LADO. Examples of such behaviour could include, but are not limited to:
 - Being over friendly with children;

- Having favourites;
- Taking photographs of children on their mobile phone;
- 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. Such behaviour can exist on a wide spectrum, from the inadvertent or thoughtless, or behaviour that may look to be inappropriate, but might not be in specific circumstances, through to that which is ultimately intended to enable abuse.

Sharing low-level concerns

4.3.11 We recognise the importance of creating a culture of openness, trust and transparency to encourage all staff to share low-level concerns so that they can be addressed appropriately. We will create this culture by:

- Ensuring staff are clear about what appropriate behaviour is, and are confident in distinguishing expected and appropriate behaviour from concerning, problematic or inappropriate behaviour, in themselves and others
- Empowering staff to share any low-level concerns
- Empowering staff to self-refer
- Addressing unprofessional behaviour and supporting the individual to correct it at an early stage
- Providing a responsive, sensitive and proportionate handling of such concerns when they are raised
- Helping to identify any weakness in the school's safeguarding system

4.3.12 The Headteacher will use the information collected to categorise the type of behaviour and determine any further action, in line with the school's code of conduct.

Record keeping

4.3.13 All low-level concerns will be recorded in writing. In addition to the details of the concern raised, records will include the context in which the concern arose, any action taken and the rationale for decisions and action taken. Records will be:

- Kept confidential, held securely and comply with the Data Protection Act 2018 and UK General Data Protection Regulations
- Reviewed so that potential patterns of concerning, problematic or inappropriate behaviour can be identified.

4.3.14 Where a pattern of such behaviour is identified, we will decide on a course of action, either through our disciplinary procedures or, where a pattern of behaviour moves from a concern to meeting the harms threshold as described in 4.1.3, we will refer it to the LADO.

4.3.15 Where a low-level concern relates to a supply teacher or contractor, we will notify the individual's employer, so any potential patterns of inappropriate behaviour can be identified.

References

4.3.16 We will not include low-level concerns in references unless:

- The concern (or group of concerns) has met the threshold for referral to the LADO and is found to be substantiated and/or;
- The concern (or group of concerns) relates to issues which would ordinarily be included in a reference, such as misconduct or poor performance

4.4 Step 4: Action following initial evaluation

4.4.1 If the child or children appear to be at risk of significant harm and in need of protection, there should be an urgent referral to local child protection agencies in accordance with the agreed procedures.

4.4.2 If as a result of the strategy discussion, there is reasonable belief to suggest that a criminal offence has been committed, the police will carry out a full investigation as outlined in section 4.6.

4.4.3 Where the initial consideration decides that the allegation does not involve a possible criminal offence or that there is no significant risk to the child, the LADO should discuss the next steps with the Headteacher/Chair of Governors and institute action as appropriate within 3 working days.

4.4.4 The options open to the school depend on the nature and circumstances of the allegation and the evidence and information available and will range from taking no further action to summary dismissal.

4.4.5 The LADO should continue to liaise with the school to monitor the progress of any case and provide advice and support as necessary. Reviews should be conducted at fortnightly or monthly intervals depending on the complexity of the case.

4.5 Unfounded and malicious allegations (refer to Appendix B for definitions)

4.5.1 If the allegation is considered to be false, the LADO should refer the matter to children's services social care to determine whether the child concerned is in need of services, or may have been abused by someone else.

4.5.2 In respect of malicious allegations, consideration should also be given to whether disciplinary action against the pupil who made the allegation is appropriate.

4.5.3 The member of staff should be informed of the allegation verbally and in writing, if this has not already been done in line with 4.2.1. The suspension should be lifted immediately, if applicable. They should be told of the fact that no further action will be taken in accordance with disciplinary/child protection procedures and relevant support considered in respect of their return to work as well as other factors as appropriate on a case by case basis.

4.5.4 The Head/Chair of Governors should also inform the parents of the child or the children of the outcome and consider what counselling and support would be appropriate. Advice and support should be sought from the Local Authority as appropriate.

4.5.5 When a decision is made to take no further action, a written record should be made, including the reason for the decision. A copy of this should be provided to the employee.

4.6 Police Investigation

4.6.1 If a criminal investigation is required, the police will aim to complete their enquiries as quickly as possible consistent with a fair and thorough investigation and will keep the progress of the case under review.

4.6.2 A target date should be set for reviewing the progress of the investigation and this should take place no later than **4 weeks** after the initial evaluation.

4.6.3 When a decision has been made not to charge the individual with an offence or administer a caution, the police should, wherever possible, aim to pass all the information they have to the school within **3 working days**, as this may be relevant to a disciplinary case.

4.6.4 If the person is convicted of an offence the police should inform the school straight away. The action the school might take will depend on the circumstances of the case and consideration will need to be given to the different standard of proof required in disciplinary and criminal proceedings. For example, it may be the case that whilst there is no criminal prosecution that the standard of proof required for employment law purposes deems that dismissal is appropriate.

4.7 **Disciplinary action**

4.7.1 If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within **15 working days** in accordance with The Thomas Hardye School Disciplinary Policy.

4.7.2 Notwithstanding 4.6.1 above, if a police investigation is being undertaken, consideration will need to be given as to whether disciplinary action can be taken in parallel with the criminal process, or whether the disciplinary process will need to await completion of the police enquiries and/or prosecution. In cases where a disciplinary investigation/action is undertaken in parallel with the criminal process it will have been agreed with the police that there is no requirement to await the completion of enquiries and/or prosecution.

4.7.3 Where further investigation is required to inform consideration of disciplinary action, the Head/Chair of Governors should appoint an appropriate level Investigating Officer, in consultation with HR.

4.7.4 If further evidence comes to light during the course of the investigation, referral to child protection agencies may need to be considered.

4.7.5 The investigating officer should aim to provide a report to the school within 10 working days.

4.7.6 Within **2 working days** of receipt of the report, the Headteacher/Chair of Governors should consult HR and decide whether a disciplinary hearing is needed. If this is the case, the hearing should be held within **15 working days**.

5 **Step 5: Referral to DCSF**

5.1 On conclusion of the case, where an allegation has been substantiated, the school should consult the LADO who will also liaise with HR about whether a referral to DCSF for consideration of List 99 action or by the GTC is required, or advisable. If a referral is appropriate the report should be made within **one month**.

6 **Step 6: Formal Review**

6.1 In cases where an allegation has been substantiated, the LADO should review the circumstances of the case with the Head/Chair of Governors and determine whether there are any improvements that could be made to the school's procedures/practice, to help prevent similar events occurring in the future.

Appendix B

Definitions

1.1 Types of Allegation

(i) No further action after initial consideration

Initial consideration means the discussion about whether the alleged incident constitutes an allegation within the scope of the Local Safeguarding Children Board (LSCB) procedures, ie the initial discussion with the LADO, Social Care or Police following which there may be no need for further action under the procedures. It does not mean following an initial assessment undertaken in accordance with the Framework for the Assessment of Children in Need and their Families.

(ii) Unfounded

This indicates 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. For an allegation to be classified as unfounded, it will be necessary to have evidence to disprove the allegation.

(iii) Unsubstantiated

This is not the same as a false (malicious) allegation. It simply means that there is insufficient identifiable evidence to prove or disprove the allegation.

(iv) Malicious

This means there is evidence to show that there has been a deliberate act to deceive and the allegation is false.

1.2 Chair of Governors

Responsible for liaising with the Headteacher/designated teacher at the school over matters regarding child protection issues, or in the case of allegations against the Headteacher, liaising with the LA designated officer/HR over appropriate action to take.

1.3 Local Authority Designated Officer (LADO)

Has overall responsibility for ensuring that the school and LA have procedures for dealing with allegations, resolving any inter-agency issues and liaising with schools and the Local Safeguarding Children Boards (LSCB) on the subject.

The LADO role for schools in Dorset is fulfilled by the Safeguarding Officer.

Telephone: 01305 225057

Email: a.burr@dorsetcc.gov.uk

1.4 Dorset Safeguarding Children Board

Key statutory mechanism for agreeing how the relevant organisations in each local area will co-operate to safeguard and promote the welfare of children.

Appendix C

Further Reference documents

Safeguarding Children and Safer Recruitment in Education, January 2007.

- chapter 5 deals with allegations of abuse against teachers and other school staff.

“Working Together to Safeguard Children 2006 - a guide to inter-agency working to safeguard and promote the welfare of children”, HM Government 2006

-updated document that sets out how individuals and organisations should work together to safeguard and promote the welfare of children.

Section 550A of the Education Act 1996: The Use of Force to Control or Restrain Pupils DfEE/10/98

- forbids corporal punishment, but allows all teachers to use reasonable force to prevent a pupil from committing a criminal offence, injuring themselves or others, damaging property, acting in a way that is counter to maintaining good order and discipline at the school.

Joint NEOST/Teacher Unions Guidance on Education staff and child protection: Staff facing an allegation of abuse, September 2002.

- Guidelines on Practice and Procedure.

Allegations against Education Staff – thresholds for and alternatives to suspension, National Network of Investigation & Referral Support Co-ordinators, updated February 2005

Disciplinary Policy and Toolkit for Schools Based Employees (to be made available to schools academic year 06/07 – in the interim, refer to school’s existing policy)

Capability Procedure – A Framework for School Based Employees

School Whistleblowing Policy – A Framework by which staff can voice their concerns in good faith about practice within the school without fear of repercussion and in accordance with the Public Interest Disclosure Act 1998.

School Code of Conduct – Guidelines for Safe Working Practice for the Protection of Children and Staff

What to Do if you are Worried that a child is Being Abused, HM Government, 2006.

Amendments

10/21: Updated to reflect KCSiE 2021 – Harm thresholds and low-level concerns

