Therapeutic Education Department at the St. Aubyn Centre

PROCEDURE FOR DEALING WITH SAFEGUARDING ALLEGATIONS AGAINST ADULTS IN SCHOOL

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Updates since last edition

Page 3	Procedures where the harm threshold is met
4, Page 5	Moved up and expanded paragraph on reporting to parents.

The St Aubyn Centre is designated as a Pupil Referral Unit and as such has a Management Committee in place of a Governing Body. For 'Governing Body' please read 'Management Committee' and for 'Governors' please read 'management committee members' throughout.

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1. Introduction

This Procedure details how safeguarding concerns and allegations against any adults engaged to work in the school will be dealt with. This includes circumstances where the allegation did not take place at the school or on school premises. "Work" includes on a voluntary basis, including as a governor.

These procedures are in accordance with the Department for Education statutory guidance document 'Keeping Children Safe in Education'.

The following principles apply:

- all concerns and allegations will be taken seriously;
- all concerns and allegations will be dealt with appropriately and in liaison with relevant parties, even where they relate to a person who is not an employee;
- all concerns and allegations will be dealt with quickly, and in a fair and consistent manner that provides effective protection for the child, and at the same time, supports the person who is the subject of the allegation.
- all staff, including those who do not work directly with children, should understand how to report safeguarding concerns or allegations about another adult working in or on behalf of the school.

2. Scope

This Procedure applies when there is a safeguarding concern or allegation in relation to employees (including the Headteacher/CEO), supply and agency staff, volunteers, contractors and governors.

Where an adult makes an allegation to a school or college that they were abused as a child, the individual should be advised to report the allegation to the police. Non-recent allegations made by a child should be reported to the LADO in line with the local authority's procedures for dealing with non-recent allegations. The LADO will coordinate with local authority children social care and the police. The most important point for all stakeholders to relay is that abuse can be reported no matter how long ago it happened.

The school expects full co-operation and participation by third-party employers/agencies in the operation of this Procedure. The school will ensure that all third-party employers/agencies are notified of this procedure before allowing any individuals employed by them to start work at the school. The school will usually take the lead on handling allegations to ensure that all appropriate action is taken.

Where an allegation relates to a person who is no longer working at the school, or where a non-recent allegation is received, the school will refer the matter to the Police and/or Local Authority Designated Officer (LADO) as appropriate and co-operate fully with any enquiries. The fact that an individual has left employment, resigned or otherwise ceased engagement with the school does not automatically bring safeguarding processes to an end. Where appropriate, the school will seek to conclude any internal processes, determine and record an outcome, and consider whether referrals to the Disclosure and Barring Service (DBS), Teaching Regulation Agency (TRA) or other relevant bodies are required.

3. Roles and Responsibilities

It is everyone's responsibility to safeguard children and everyone has a role to play in identifying concerns, sharing information, taking prompt action and fully co-operating with this Procedure. All adults should make themselves aware of their responsibilities in this regard as set out in the Code of Conduct.

If anyone has any safeguarding concerns, they must report these immediately, to the headteacher, or other senior leader or the Designated Safeguarding Lead ("DSL") or Deputy DSL if the headteacher is unavailable, or where concerns relate to the headteacher or a governor, to the Chair of Governors, or where concerns relate to the chair of governor, to the Vice Chair or where unavailable the safeguarding governor.

Whistleblowing

Where at any point an individual feels unable to raise an issue with the appropriate person set out above, for example due to the sensitivity of the issue, or feels that their genuine concerns are not being addressed, they may refer to the Whistleblowing Policy. This policy sets out the framework for how issues can be raised confidentially internally, and/or if necessary, outside the management structure of the school to a prescribed body. For safeguarding and child protection allegations, individuals can refer to the Local Authority Designated Officer for child protection (LADO) (the Essex LADO can be contacted on 03330 139797 / LADO@essex.gov.uk) or the NSPCC who have a dedicated helpline 0800 028 0285. The line is available from 8:00 AM to 8:00 PM, Monday to Friday and email: help@nspcc.org.uk.

4. Procedures

In some cases, a concern will have been reported to, or discovered by, Social Care, the Police or the Local Authority Designated Officer ("LADO"), who will in turn inform the school (and where appropriate the third-party employer) and will initially lead and direct the investigation. In such cases the school, and where appropriate the third-party employer, will follow the advice and directions of these agencies as set out in Section 6.

Where a concern or allegation is initially reported to the school, the matter will be taken seriously and considered with an open mind. In rare cases, where it appears a person may be an immediate risk to children, or there is suggestion of a possible criminal offence, the matter must be reported to the Police by the school. This should usually be done via the headteacher or where unavailable another senior leader or the Designated Safeguarding Lead ("DSL") or Deputy DSL and advice should also be taken from the LADO. In such cases the school will wait for advice from the Police/LADO before taking any further action (see Section 6.).

Parents or carers of the child or children involved should be formally told about the matter as soon as possible, unless doing so would put the child at more risk. The case manager should consult the LADO and where involved, local authority children's social care and/or the police on what information can be disclosed. Parents or carers should be:

- kept informed about the progress of the case, only in relation to their child - no information can be shared regarding the staff member
- made aware of the requirement to maintain confidentiality and unwanted publicity about any allegations made against teachers in schools whilst investigations are in progress as set out in section 141F of the Education Act 2002.

Assessment

Concerns raised will vary from the serious, to relatively low-level issues. The headteacher (or Chair of Governors), along with the Designated Safeguard Lead, will make an initial assessment to determine how the matter should be dealt with, ensuring any action is appropriate and proportionate. In many cases this may involve providing additional direction, support or training.

Before determining whether a referral to the LADO is required, the case manager should undertake proportionate initial fact-finding to establish whether the reported incident could have occurred as described. This is not a formal investigation and should be limited to gathering sufficient information to inform an assessment of whether the harm threshold may be met.

Examples of proportionate initial fact-finding may include establishing whether the individuals concerned were present at the relevant time, whether they were in the location described, whether CCTV, electronic records or other objective evidence exists, and whether there are any immediate safeguarding risks requiring urgent action.

However, in cases where misconduct is suspected the following steps will be followed.

Initial investigation

The headteacher or Chair of Governors where the allegation relates to the headteacher, will themselves, or arrange for an appropriate person, to be the case manager. The case manager will obtain advice and support as necessary; for example from their human resources provider.

In certain circumstances, such as the lack of appropriate resources within the school or, given the nature or complexity of the allegation, the school may engage an independent investigator to be the case manager.

In accordance with Part four: Safeguarding concerns or allegations made about staff, including supply teachers, volunteers and contractors, The case manager will monitor the progress of the case to ensure that it is dealt with as quickly as possible through a thorough and fair process. Wherever possible, the first review will take place no later than four weeks after the initial assessment, with further reviews arranged as necessary until the matter is concluded.

If the investigation remains ongoing, further review meetings will be scheduled at the conclusion of each review. Reviews should take place at regular intervals, ideally every two weeks and no less frequently than monthly, to monitor progress, address any delays, review safeguarding arrangements and ensure the matter continues to be managed promptly, thoroughly and fairly.

Third-party/Agency workers

Where a concern or allegation relates to a person employed by a third party/agency, the case manager will inform, and liaise with the employer/agency. The school will usually take the lead on the investigation but will invite the employer/agency's human resource representative or equivalent person to relevant meetings and keep them informed.

The case manager will carry out a brief initial investigation to gather enough information to establish whether the allegation has foundation and whether the information indicates that a person has met the "harm test", which is that they have:

- 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 he or she would pose a risk of harm to children.
- behaved or may have behaved in a way that indicates they may not be suitable to work with children
- In addition, it is important to note including behaviour that may have happened outside school.

Where a concern or allegation relates to an individual working for an organisation or operating independently on school premises, the case manager will follow the same procedures as set out here to determine if the harm threshold is met to refer to LADO.

This "harm test" is explained on the Disclosure and Barring Service website GOV.UK

The initial investigation will be carried out immediately and will entail:

- making a detailed written, signed and dated record of the information reported;
- asking the person reporting the concern to immediately provide a written statement which should be signed and dated;
- fact checking to establish that the incident could have happened e.g. was the accused person and child in the place mentioned and making a written and dated record.
- Where CCTV or other electronic evidence may be relevant, reasonable steps should be taken immediately to preserve and secure that evidence. Schools should be aware that some systems automatically overwrite recordings after a limited period

The case manager will not:

- investigate in great depth or ask leading questions;
- interview the accused, children or any witnesses;
- make assumptions or offer alternative explanations;

- promise confidentiality, although may give assurance that the information will only be shared on a 'need to know' basis.

If the case manager considers the harm test to have been met, Section 6. of these procedures will then apply.

In many cases, the harm test will not be met, and internal procedures will be followed as set out in Section 7. of these procedures.

Wherever possible, the accused should be given full opportunity to answer the allegation and make representations about it. The process of recording the allegation and any supporting evidence and reaching a judgement about whether it can be substantiated or otherwise 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 those circumstances, and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record an outcome wherever possible. The person concerned should be notified of the conclusion of the allegations and sanctions that might be posed. In cases where the allegations have been substantiated/ upheld, the employer may also be required to make referrals to relevant bodies such as the TRA and DBS.

5. Suspension and alternatives

On the basis of the facts available at each stage of these procedures, it may be considered appropriate to remove the accused person from certain roles or contexts or from the school entirely where:

- there is cause to suspect a child or other children at the school are at risk of harm;
- the case is so serious that it might be grounds for dismissal;
- allowing the employee to remain at work could hinder the investigatory process; or
- there is a restriction in place such as bail conditions or an interim prohibition order.

The LADO may advise on this matter, but the decision will be made by the school.

Employees

The case manager will undertake a detailed risk assessment and explore all options to avoid suspension such as redeployment or reallocation of duties will be considered. If suspension is considered necessary, the rationale and justification will be recorded in the risk assessment in addition to the alternatives to suspension that were considered and why they were considered not to be appropriate in the circumstances.

The risk assessment should be recorded in writing and should consider safeguarding risks, alternatives to suspension, the impact on children and staff, and the rationale for the decision reached.

The employee will receive written confirmation of their suspension, including written reasons for the suspension, within one working day. They will also be notified of the support available (see section 9. below).

Volunteers

The case manager will make a judgement, based on the nature of the concern or allegation and the evidence available, about whether it is appropriate to stop the volunteer attending school while the investigation is carried out.

Third Party/Agency Workers

The case manager will liaise with the third-party employer/agency to determine whether it is appropriate to redeploy or suspend the supply teacher/contractor, during the investigation. The school will not decide to cease to use the worker entirely until the investigation is complete and an outcome reached.

Governors

Where appropriate, a governor may be asked to absent themselves from some or all aspects of their functions, or in the most serious cases, and where regulations allow, may be suspended, during an investigation.

All arrangements will be discussed with the person concerned, confirmed in writing and kept under regular review.

Referral to the Disclosure and Barring Service

There is a legal requirement for schools and colleges to make a referral to the DBS where they remove an individual from regulated activity (or would have removed an individual had they not left), and they believe the individual has:

- engaged in relevant conduct in relation to children and/or adults, and/or
- satisfied the harm test in relation to children and/or vulnerable adults, and/or
- been cautioned or convicted of a relevant (automatic barring either with or without the right to make representations) offence.

6. Procedures where the harm test is met

Where the school is uncertain whether the harm threshold may be met, consultation should be sought from the LADO service. Consultation may assist schools in determining whether a matter should remain an internal management issue or proceed as a formal safeguarding allegation referral.

The case manager will report the allegation to the LADO within one working day. Failure to report an allegation or concern in accordance with procedures is a potential disciplinary matter.

The LADO will liaise with other agencies such as the Police or Children's Social Care as appropriate, to determine next steps and the school will follow the directions of these agencies.

This may include:

- what, if any, information can be shared with parents and the accused person and at what point;
- provision of further information about child/ren or adults; and
- attendance at a strategy or management planning meeting to share relevant information and plan next steps. HR should be included in any strategy meeting, where possible. It is the case manager's responsibility to ensure this takes place.

The LADO will advise the school when agency involvement is concluded and the matter is handed back to be dealt with through internal procedures, as set out in Section 7.

Criminal cases

In most cases, internal procedures cannot be applied until the conclusion of police processes. The police should inform the employer and designated officer(s) immediately 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 the person has been charged. In those circumstances, the designated officer(s) should discuss with the case manager whether any further action, including disciplinary action, is appropriate and, if so, how to proceed. The information provided by the police and/or children's social care services should inform that decision. Where the police are involved, wherever possible the employer should ask the police to obtain consent from the individuals involved to share their statements and evidence for use in the employer disciplinary process.

7. Internal Procedures

Where the harm test is not met, and where LADO, Social Care and/or Police involvement is concluded and it is agreed that the school can follow its internal procedures, the matter will be dealt with in accordance with the Low-Level Concerns Policy as set out in the Code of Conduct. This includes, where the case manager makes a judgement that the matter amounts to potential misconduct, the procedures below.

If, at any stage, new information emerges that requires a referral as set out in Section 6, the internal procedures should be held in abeyance and only resumed if agreed with the LADO, children's social care and the Police. Consideration or a review of suspension/alternate arrangements should be also undertaken.

<u>Employees</u>

Where the concern or allegations relates to an employee, the Disciplinary Procedure will be applied where misconduct is suspected. The outcome will be determined and communicated to the employee, and recorded in the child protection records, as set out in Section 8.

Volunteers

Where a concern or allegation relates to a volunteer, the case manager will arrange for an investigation to be carried out. This will involve gathering relevant information and evidence, including speaking to the volunteer.

At the end of the investigation, the outcome will be determined and communicated to the volunteer, and recorded in the child protection records, as set out in Section 8.

Having reached a determination, the case manager will decide whether it is appropriate to allow the individual to continue to volunteer, and if so whether there are any conditions or considerations, such as additional training or supervision.

Third party workers, including agency supply teachers and other workers

In the case of workers who are not employees of the school, their employer is responsible for applying their internal procedures. However, where necessary the school will lead in carrying out investigations, as agencies will not have access to children and other staff to collect facts. In any case, the school will fully co-operate with and provide support as required, to the third-party employer and other agencies. Subject to the outcome of the investigation, the school may decide to cease to engage the worker.

Governors

Where a concern or allegation relates to a governor, the Complaints against Governors Procedure will be applied. The outcome will be determined and communicated to the governor, and recorded in the child protection records, as set out in Section 8.

Low level concerns

Where a concern does not meet the harm threshold set out in this procedure, it will be dealt with in accordance with this low levels concern policy and code of conduct. A low-level concern is any concern, no matter how small, that an adult working in or on behalf of the school may have acted in a way that is inconsistent with the staff code of conduct, including inappropriate conduct outside of work, but which does not meet the harm threshold for referral to the Local Authority Designated Officer (LADO).

All low-level concerns should be reported promptly and recorded in writing. Records will include details of the concern, the context in which it arose, any action taken and the rationale for decisions reached. Records will be held securely and confidentially in accordance with the school's data protection and record retention requirements.

The Headteacher, or where appropriate the Chair of Governors, will ensure that low-level concerns are reviewed periodically to identify any patterns of concerning, problematic or inappropriate behaviour. Where a pattern emerges, consideration will be given to whether the matter should be managed through disciplinary procedures or whether it now meets the harm threshold and requires referral to the LADO.

The school will promote a culture of openness, trust and transparency in which all staff feel confident to share concerns about their own conduct or the conduct of others without fear of reprisal. Appropriate support, guidance, training and supervision will be provided where necessary to reinforce professional boundaries and minimise the risk of future concerns arising.

Low-level concerns relating to supply staff, agency workers, contractors or volunteers will be shared with their employer or relevant organisation where appropriate, so that safeguarding information can be considered alongside any concerns arising in other settings. Information relating to low-level concerns will only be disclosed in employment references

where disclosure is permitted by statutory guidance and would ordinarily be included, for example where the matter resulted in extra CPD training requirements or substantiated misconduct or poor performance findings.

8. Conclusion of safeguarding cases

Investigations into allegations will be completed and the outcome recorded, regardless of whether the person involved resigns or otherwise ceases their engagement at the school prior to the conclusion of the investigation or criminal or internal procedures. The individual will be invited to participate in internal procedures at all stages, but they will proceed even if the person declines to co-operate.

Settlement agreements will **not be used** to resolve employee relations matters relating to safeguarding.

The following definitions will be used when determining and recording the outcome of 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;
- Unfounded: to reflect cases where there is no evidence or proper basis which supports the allegation being made.

Records and References

Allegations which are found to be malicious or false will be removed from personnel records. In all other cases, a clear and comprehensive summary of the allegation, details of how the concern or allegation was followed up and resolved, a note of any actions taken and decisions reached will be recorded and retained on the personnel file of the accused and a copy provided to the individual.

The school has a duty to report substantiated safeguarding concerns/allegations (including a group of low-level concerns about the same individual) that meet the harm threshold in references. Allegations proven to be false, unsubstantiated, unfounded or malicious will not be included in references. Low-level concerns will only be included in references if they relate to issues which would normally be included in a reference, for example, misconduct or poor performance.

References should be factual and must not include repeated low-level concerns unless they are substantiated and meet the relevant threshold for inclusion or relate to matters that would normally be included in a reference. References should not include opinions.

Where safeguarding-related CPD or retraining has been required as a result of substantiated conduct, capability or safeguarding concerns, the fact that such training was required and completed may be referred to in a reference, provided the information is factual, accurate, relevant and fair.

The school has an obligation to preserve records which contain information about allegations of sexual abuse for the Independent Inquiry into Child Sexual Abuse (IICSA), for the term of the inquiry. All other records will 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. Full details can be found in the school's record retention schedule.

Referral to the Disclosure and Barring Service

A referral to the Disclosure and Barring Service (DBS), and where appropriate the Teacher Regulation Agency, will be made (updated) on the conclusion of case where the individual has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left.

Notifying parents

In line with the statutory guidance "Keeping Children Safe in Education" parents should be kept informed about the progress of the case, only in relation to their child - no information can be shared regarding the staff member.

Return to work

Where it is decided on the conclusion of a case that a person who has been suspended or placed on alternate duties, can return to work, the case manager will consider how best to facilitate this.

Consideration will be given, in consultation with the person, about what help and support should be given. This may include a phased return or a short-term mentor for support and consideration of how the person's contact with the child or children to whom the allegation related can best be managed if they are still a pupil or student.

Reflections and further action

If an allegation is determined to be false or malicious, the school will liaise with relevant agencies to determine what, if any, further interventions or action may be necessary in respect of the accuser.

In other cases, the school will reflect on its practice and procedures to determine whether there are any improvements to be made.

9. Support for those involved

The school will act to manage and minimise the stress inherent in the allegations process.

- Allegations will be dealt with expeditiously, fairly and thoroughly;
- Individuals will be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, and updates on progress, unless there is an objection by the children's social care services or the police;
- Employees should contact their trade union representative and have the right of representation by a trade unions representative or work colleague at any formal disciplinary meeting.
- Other individuals should seek appropriate support e.g. citizens advice, their professional body;
- Individuals will be given access to welfare counselling or medical advice where this is appropriate and available. In case of third-party workers, this will be the responsibility of their employer; and
- All individuals subject to alternate work arrangement/suspension will be given a named contact to provide relevant updates regarding events in the workplace and to act as a conduit for information/communication as appropriate. In the case of third-party workers, this will be the responsibility of their employer.

10. Confidentiality

It is essential that strict confidentiality is maintained at all time, by all parties.

It is however a statutory requirement for schools and where applicable their staff, to share relevant information in relation to safeguarding matters and as such the school will share information with the LADO, police, children's social care, other agencies such as the DBS and the Teaching Regulation Agency, and individuals such as parents/carers, as required and in accordance with its obligations and any regulations, including the Data Protection Act and the Human Rights Act.

The Education Act 2002 introduced reporting restrictions preventing the publication of any material that may lead to the identification of a teacher in a school who has been accused by, or on behalf of, a pupil from the same school (where that identification would identify the teacher as the subject of the allegation). The reporting restrictions apply to everybody until the point that the accused person is charged with an offence, or until the Secretary of State publishes information about an investigation or decision in a disciplinary case arising from the allegation. The reporting restrictions are disapplied if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a judge lifts restrictions in response to a request to do so.