




'Christ at the centre, children at the heart'

Our Lady of Walsingham Catholic MAT Company No:

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## ALLEGATIONS OF ABUSE AGAINST STAFF POLICY

# OLW CMAT (THE MAT) ALLEGATIONS OF ABUSE AGAINST STAFF POLICY

## Introduction

The MAT is committed to providing the highest level of care for both its pupils and its staff. It is extremely important that any allegations of abuse against a teacher, any other member of staff, volunteer, supply teacher, or contractor engaged in our Academy is dealt with thoroughly and efficiently, maintaining the highest level of protection for the child whilst also giving support to the person who is the subject of the allegation. Our policy is in line with statutory guidance from the Department for Education.

This policy is designed to ensure that all staff, third parties' pupils and parents, or carers are aware of the procedure for the investigation of allegations of abuse in order that all complaints are dealt with consistently and efficiently as possible.

We hope that having a clear policy outlined will help pupils feel comfortable so that they can voice concerns about any member of staff. Allegations will be reported to the Headteacher immediately or to the Local Chair of Governors where the Headteacher is the subject of an allegation, or to the Chair of Directors where a member of the Executive Team is the subject of an allegation. All allegations will be taken seriously and investigated immediately.

## Purpose

The procedure for dealing with allegations against staff depends on the situation and circumstances surrounding the allegation. This policy must be followed when dealing with allegations but may be adapted to each case. This policy will be used alongside the MAT's Complaints Policy, the MATs Employee Discipline Policy and the Safeguarding Policy in each Academy.

This policy will be used in any case where it is suspected or alleged that a member of staff or a volunteer in the MAT or at an Academy 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 would pose a risk of harm to children, or
- behaved or may have behaved in a way that indicates they may not be suitable to work with children

It will also be used where low-level concerns are raised. 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, contrary to school policy;
- engaging with a child on a one-to-one basis in a secluded area or behind a closed door; or,
- humiliating children.

## Timescale

It is imperative that allegations against staff are dealt with as quickly as possible to:

- minimise the risk to the child
- minimise the impact on the child's academic progress
- minimise stress to the employee concerned
- ensure a fair and thorough investigation for all parties.

To enable this to happen, all staff, parents, and pupils should be aware of the procedures set out in this policy.

## Associated Policies and Procedures

Local Academies Safeguarding Policy

OLW CMAT Performance Management, Appraisal & Capability Policies and Procedures for Teachers or Support Staff

OLW CMAT Complaints Policy and Procedure

OLW CMAT Acceptable Usage Policy

OLW CMAT Data Protection Policy

OLW CMAT Code of Conduct Policy

OLW CMAT Whistle-blowing Policy

Local Academies Behaviour Policy

Local Academies Low Level Concern Policy

OLW CMAT Employee Disciplinary Procedures

OLW CMAT Contracts of Employment

OLW CMAT Grievance Procedures

## Procedure

### Reporting an allegation

All allegations including those that may have met the harm threshold or low-level concerns made against staff, volunteer, supply teacher, or contractor (including self-referrals) should be reported immediately to the CEO or Headteacher. Should the initial allegation first be made to any other member of staff i.e. the Designated Safeguarding Lead, then that member of staff must either request the person raising the allegation to report it to the CEO or Headteacher or report it themselves. Complaints about the Headteacher should be reported to the Chair of Governors. Complaints about the CEO or member of the Executive Team should be reported to the Chair of Directors. The person reporting the allegation or low-level concern must make a signed and dated written record of the concerns, observations or the information received and give it to the CEO or Headteacher straight away, strict confidentiality must be maintained.

The person reporting the allegation or low-level concern must not attempt to deal with the situation themselves, make assumptions, offer alternative explanations or diminish or embellish the seriousness of the behaviour or alleged incidents. They must not keep the information to themselves or promise confidentiality or take any action that might undermine any investigation.

Should the allegation meet any of the following criteria then the Headteacher, CEO, Chair of LGB or Directors should report the allegation to the Local Authority Designated Officer (LADO) the same day that the allegation is received:

- behaved in such a way that may have harmed a child or may have intended to harm a child. The Safeguarding (incorporating child protection) Policy outlines what it means to harm a child
- acted outside of the law in relation to dealings with a child
- behaved in any way that suggests they may be unsuitable to work with children.

It will also be used where low-level concerns are raised. 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.

Staff who are concerned about the conduct of a colleague towards a pupil are undoubtedly placed in a very difficult situation. They may worry that they have misunderstood the situation, and they will wonder whether a report could jeopardise their colleague's career. All staff must remember that the welfare of the child is paramount and must report their concerns immediately.

### Initial Consideration

The LADO will be contacted by the Headteacher, and a discussion will take place to decide whether:

- more information is required; or
- no further actions are needed; or
- a strategy discussion should take place; or

- there should be immediate involvement of the police or social care.

There is no discretion for Headteachers over whether to discuss such allegations with the LADO. The Academy or MAT will share available information with the LADO about the allegation, the child, and the person against whom the allegation has been made and consider whether a police investigation or a strategy discussion is needed. The Headteacher should not investigate the allegation at this stage. Representatives from other agencies may be invited to the discussion and could include representatives from health, social care, and police.

## Investigation

Suitable training regarding undertaking investigations should be undertaken by the CEO, the Headteachers of the Academies, and ideally two other members of the Leadership Teams or equivalent.

An investigation into the allegation may be carried out by children's social services or by the Academy, or if appropriate for the MAT. This will be agreed at the initial evaluation stage. Where the Academy is not conducting the investigation, it will cooperate with investigative agencies.

Internal investigations must be second to any safeguarding investigation and may need to be delayed until the external investigation is complete.

Disciplinary action must not be taken before there has been an investigation into the circumstances.

The procedures used for any internal investigation will comply fully with the OLW CMAT's disciplinary and/or capability procedures for convening a formal investigatory interview, complying with communication requirements and time-scales for, for example, completing and providing a report, holding, where necessary, a disciplinary hearing, taking any appropriate disciplinary action and complying with the process for appeals.

The following definitions should be used when determining the outcome of the investigation:

- **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:** 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.

Where the initial consideration decides that the allegation does not involve a possible criminal offence, it will be for the Headteacher to deal with it. In such cases, if the nature of the allegation does not require formal disciplinary action, the Headteacher should institute appropriate action within three working days.

## Supporting those involved

### Parents and Carers

Parents and carers will be notified if their child makes or is involved in an allegation against staff if they do not already know. However, if the police or social services are to be involved, they will be contacted first and will advise as to what information may or may not be disclosed to the parents. There will be a staff member designated to the role of liaising with the parents and child about the case and ensuring that they are fully informed as far as is possible. Any information shared should remain confidential to protect all parties. The Academy will take advice on what type of support the child might need.

## Supporting the person(s) who makes the allegation

The MAT's Whistleblowing Policy enables staff to raise concerns or allegations against their colleagues in confidence and for a sensitive enquiry to take place. The MAT recognizes the sensitivities and possible impact on individuals raising concerns, including those who may witness an incident. All Trust staff are encouraged to access support available to all employees through the Employee Assistance Programme and will be signposted to this and other wellbeing structures in place at school and Trust level.

## Supporting the employee

The MAT has a duty of care to its employees and will do everything to minimise the stress of any allegation and the disciplinary process. Support for the individual is key to fulfilling this duty.

The person who is the subject of the investigation will be informed as soon as possible and usually after the initial discussion with the designated officer. The employee will then be advised on what the next course of action will be. However, if the police or social services are to be involved, they will be contacted before the employee and will advise as to what information may be disclosed to the person under investigation.

The CEO, Headteacher, or a named representative will keep the employee informed of the progress of the case and any other work-related issues.

The employee may need additional support, and the OLW CMAT will consider what might be appropriate to best accommodate this. The individual should be advised to contact their trade union representative if they have one or a colleague for support. They could also be given access to welfare counselling or medical advice. Particular care needs to be taken when employees are suspended to ensure that they are kept informed of both the progress of their case and current work-related issues. Social contact with colleagues and friends must not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence. If it is a criminal investigation and the police are involved, they may provide this additional support.

## Confidentiality

The MAT will make every effort to guard the privacy of all parties during and after an investigation into an allegation. It is in everyone's best interest to maintain this confidentiality to ensure a fair investigation with minimum impact for all parties. However, there may be a need to share information with relevant agencies, for example at a strategy meeting, on a need to know basis. Any enquiries from the press should be directed to the Headteacher and chair of governors / Directors, unless it is a freedom of information or data protection request in which case the MAT HR Business Partner or legal representative should be contacted.

A breach of confidentiality will be taken seriously and may warrant its own investigation.

## Suspensions

The MAT will not suspend a member of staff without serious consideration and will not do it automatically once an allegation has been made. Depending on the nature of the case, it may be possible that alternative arrangements are made so that the individual can continue working. For example, redeployment so that the individual does not have direct contact with the child concerned, or providing an assistant to be present when the individual has contact with children. This allows time for an informed decision regarding the suspension and possibly reducing the initial impact of the allegation. This will, however, depend upon the nature of the allegation. The MAT should consider the potential permanent, professional, and reputational damage to staff members that can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended.

In the case of employees other than the Headteacher, the Headteacher will normally take the decision to suspend. In the case of the suspension of the Headteacher, the Chair of Governors will take this decision. In the case of the suspension of a member of the Executive Team, the Chair of Directors will take this decision. In either case, the MAT will listen to the views of the police and or social care regarding suspension. The Headteacher should, where possible, consult the employee before the decision to suspend is taken.

In the case of suspension, the employee will receive written confirmation within one working day and will be informed of the reason for the suspension. The person should be informed at that point who their named contact is within the organisation and provided with their contact details. This contact person will not be involved in the investigation in any way.

Local authority for children's social care services or the police cannot require the MAT to suspend a member of staff or a volunteer, although the MAT should give appropriate weight to their advice. The power to suspend is vested in the CEO, Headteacher or the Chair of Governors or Directors who are the employers of staff at the Academy. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by the local authority social care services and/or an investigation by the police, the LADO should canvass police and the local authority children's social care services for views about whether the accused member of staff needs to be suspended from contact with children and to inform the Academy & MAT about the consideration of suspension.

A risk assessment should be carried out for each individual case to determine whether the member of staff should be suspended. The assessment should consider the context of the allegation, background information in relation to the member of staff, and any outcome following the strategy meeting. It should also consider whether a temporary transfer or period of paid leave is appropriate as an alternative to suspension. The assessment must be recorded, and a copy kept on file stating the reasons for suspension (or not suspending).

When a decision to suspend is taken, it will be made clear that the suspension is neither a disciplinary penalty nor an assumption of guilt.

If a suspended employee is certificated by his/her GP as being unfit for work, s/he will be paid in accordance with their sick pay entitlement for that period of certification. This means that if a period of certificated sick leave continues beyond the employee's entitlement to full pay, s/he will receive pay in line with their sick pay entitlement which may be at half pay or no pay rate.

At frequent intervals, the CEO, Headteacher and/or nominated governor or Director should review whether an employee should remain suspended. Any suspension which extends beyond four working weeks will be reported to the Chair of Governors or Directors as appropriate with details of how the investigation is progressing and when it is likely to end. Where any suspension continues for three months, the employee will be informed of the reasons for the suspension continuing and when it is likely to come to an end.

The responsibility for lifting suspension lies with the Directors and is delegated by the Directors to the Local Governing Body, and this can be further delegated to the Chair of the LGB or the Headteacher.

### Resignations

If an employee resigns when the allegation is made against them or during an investigation, the investigation will continue until an outcome has been reached, with or without the employee's cooperation. They will be given full opportunity to answer the allegation and make representations about it, but the process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be regarded as substantiated on the basis of all the information available, should continue even if that cannot be done or the person 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 a conclusion wherever possible.

By the same token so called 'compromise agreements' or 'settlement agreements', by which a person agrees to resign if the MAT agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, must not be used in these cases. In any event, such an agreement will not prevent a thorough police investigation where that is appropriate. Nor can it override the statutory duty to make a referral to the DBS or to the Teaching Regulation Agency where circumstances require that. False, malicious, unfounded concerns will not be referenced.

## Record keeping

Where an allegation is found to be malicious or demonstrably false, it will be removed from the record of the employee concerned. For all other allegations, including those that are substantiated, unsubstantiated or unfounded, records of the investigation and its outcome will be retained securely on the employee's personnel file, and the employee will be provided with a copy where appropriate. These records will be retained, including for individuals who leave the organisation, at least until the individual reaches normal retirement age or for a period of ten years from the date of the allegation, whichever is longer.

Records relating to allegations and low-level concerns will be reviewed periodically by the Headteacher (or Case Manager) to ensure that information remains accurate, proportionate and appropriate, and to enable the identification of any repeated, concerning or inappropriate patterns of behaviour that may require further action or escalation.

Details of any allegation made by a pupil will be retained in the confidential section of the pupil's record in accordance with data protection legislation. Where a concern or allegation is reported anonymously, it will still be recorded and considered on its merits. While anonymity may limit the ability to investigate fully, it will be respected where reasonably possible and will not prevent appropriate safeguarding action from being taken.

## Action on conclusion of the case

If it is decided that the employee may return to Academy after a suspension, then provisions will be put in place by the Academy to ensure that the transition is as smooth as possible. This may involve a phased return for a trial period or the use of another member of staff as a support system in the short term. If the child who made the allegation is still at the Academy, the Academy will consider what needs to be done to manage the contact between employee and child.

## Referral to DBS and TRA

If the allegation is substantiated and:

- the person is dismissed; resigns, or otherwise ceases to provide his or her services, or
- the employer ceases to use the person's services.

In the case of a member of teaching staff at any school, sixth form college, or 16- 19 academy, the case manager must consider whether to refer the matter to the TRA to consider whether the individual should be prohibited from teaching.

There is a legal requirement for employers to make a referral to the DBS where they consider an individual has engaged in conduct that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child.

## Action in the case of false or malicious allegations

Where an allegation is proved to be false, the CEO, Headteacher and Chair of Governors or Directors may refer to social services to determine whether the child needs support or has been abused by someone else.

The Local Academy's behaviour policy sets out the disciplinary action that may be taken against pupils who are found to have made malicious accusations against Academy staff. The Headteacher may consult the Academy governors when considering what action to take. If it is clear to the Headteacher and the LADO that the allegation is demonstrably false or unfounded the member of staff should be informed orally and in writing of the allegation, that it is without foundation and that no further action will be taken. Where appropriate, and if requested, support should be

offered, which could include occupational health and counselling services. If an allegation made by a member of staff is proved to be malicious, an investigation should take place in accordance with the MAT Disciplinary Policy and Procedures. The police may also consider taking action against the individual, making the allegation.

If the claim has been made by a person who is not a pupil, the Academy may pass the information to the police who may take further action against that person.

### **After the case**

No matter what the outcome is of an allegation of abuse against staff, the Academy will review the case to see if there are any improvements that can be made in its practice or policy that may help to deal with cases in the future.



## Appendix 1

### INFORMATION GUIDE FOR EMPLOYEES FACING ALLEGATIONS

The aim of this information guide is to explain the processes involved, and the support and guidance available, if it is alleged that that you have:

- harmed a pupil or put a child at risk of harm; or
- committed a criminal act toward a pupil; or
- behaved in a way that raises concern about your suitability to work with children or young people.

It will also be used where low-level concerns are raised. 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.

#### Initial Action

As soon as possible after the allegation is made, the CEO or Headteacher should consult the Local Authority Designated Officer (LADO) to discuss the next action points, taking advice from social care and the police as needed. The police may advise that you are not told about the allegation immediately.

The CEO or Headteacher’s decision in consultation with the LADO will be one, or a combination of the following:

- A - The pupil is alleged to have suffered, or is likely to suffer, significant harm - which requires immediate referral to social care.
- B - A criminal offence is alleged - which requires referral to social care and police.
- C - The allegation represents poor or inappropriate behaviour - which should be considered under the MAT disciplinary and/or capability procedures, including referral, if appropriate, to the Academy occupational health advisor.
- D - The allegation is clearly and demonstrably without foundation and no further action will be taken.

If the conclusion of the initial discussions are a) or b), a strategy discussion will take place involving police, social care, the CEO or Headteacher, LADO and the MAT’s HR provider. You will not be invited. The discussion will focus on the needs of the child who may be at risk. It will determine what action should be taken regarding further investigation, but it is not part of any disciplinary procedures. Where possible, you will be kept informed orally and in writing.

If the initial discussions conclude the situation is as outlined in c): an investigation will be initiated under the MAT’s disciplinary and/or capability procedures.

If the conclusion is as outlined in d) you should be told orally and in writing that the allegation is without foundation, and that no further action will be taken.

## Types of Possible Investigation

- Child protection enquiries by social Care
- Criminal investigation by police
- Disciplinary/capability investigation

A disciplinary investigation will usually be held in abeyance until external agency investigations are complete, unless prior agreement is reached. Whilst these investigations should be conducted as speedily as possible, they should also be balanced against the need to be thorough and fair, in line with natural justice. Statements taken in external investigations could be used in subsequent disciplinary proceedings.

## Suspension

Suspension is neither a disciplinary penalty nor an assumption of guilt and is not automatic. A risk assessment will be carried out for each individual case to determine whether the member of staff should be suspended.

Alternatives to suspension will be considered, e.g. transfer of duties, additional supervision.

Where possible suspension is being considered, you will be consulted where possible. You are advised to seek the assistance of your union representative. If you are suspended, one of his/her roles will be to promote your interests and raise issues that may be of concern to you.

The consultation is not an examination of the evidence, but an opportunity for you to make representations concerning possible suspension.

In the case of suspension, you will receive written confirmation within one working day and will be informed of the reason for the suspension. You will be informed of your named contact within the organisation and provided with their contact details. This contact person will not be involved in the investigation in any way.

Other people, including other staff, should only be told about the allegation on a 'need to know basis'. Notification may be delayed if the police think this could prejudice an investigation.

Those who will be told of the allegation and likely course of action include you, your line manager, the CEO, the Headteacher, MAT's HR provider, the LADO and the investigating agencies as above.

If you are suspended, those persons likely to be on a disciplinary panel, if convened, will be given limited information, so any future disciplinary process is not prejudiced. If the matter becomes common knowledge, it may be necessary to issue a brief statement, agreed by the agencies concerned, to parents, pupils and the public.

## Support

You should expect to be:

- advised to contact your union representative.
- given a support contact within the Academy who should keep you up to date with the progress of your case and your main point of contact should you have any queries relating to the process.
- given a named contact person, if you are suspended, who will update you about normal organisation activities. Social contact with colleagues should not be precluded unless this is detrimental to the investigation. The type of information and frequency of contact should be agreed, but colleagues should not comment on or discuss the investigation.
- offered staff counselling service and/or occupational health support.

This may be a stressful time, so in addition to contacting your union representative, you are advised to see your GP if you think your health may be affected.

