

# Allegations Against Professionals – Procedures for Response COLAT Academies



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## Section 1: Allegations that may meet the harms threshold

This section is based on ‘Section 1: Allegations that may meet the harms threshold’ in part 4 of Keeping Children Safe in Education 2021.

### 1. Introduction

1.1 These procedures set out how to manage cases of where an allegation has been made that might indicate a person would pose a risk of harm<sup>1</sup> if they continue to work in regular or close contact with children in their present position, or in any capacity. It should be used in respect of all cases in which it is alleged that a member of staff<sup>2</sup>, including agency staff, contractors and volunteers in a school or college that provides education for children under 18 years of age 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

<sup>1</sup> The harm test is explained on the Disclosure and Barring Service website on [Gov.uk](https://www.gov.uk)

<sup>2</sup> All references in this document to ‘members of staff’ should be interpreted as meaning all paid or unpaid staff and volunteers.

- 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.

1.2 These behaviours should be considered within the context of the four categories of abuse: physical,

sexual, emotional abuse and neglect. The last bullet point above includes behaviour that may have happened outside of school or college, that might make an individual unsuitable to work with children, this is known as transferable risk.

1.3 where appropriate an assessment of transferable risk to children with whom the person works should be undertaken. Advice is to be sought from the relevant Local Authority Designated Officer (LADO)

1.4 This procedure relates to members of staff, agency staff, contractors and volunteers who are currently working in any school or college regardless of whether the school or college is where the alleged abuse took place. Allegations against a teacher who is no longer teaching should be referred to the police. Historical allegations of abuse should also be referred to the police.

1.5 Schools and Colleges as employers have a duty of care to their employees. They should ensure they provide effective support for anyone facing an allegation and provide the employee with a named contact if they are suspended. It is essential that any allegation of abuse made against a teacher or other member of staff or volunteer in a school or college is dealt with very quickly, in a fair and consistent way that provides effective protection for the child, and at the same time supports the person who is the subject of the allegation.

1.6 Where the school or college are not the employer of an individual, they still have responsibility to ensure allegations are dealt with appropriately and that they liaise with relevant parties (this includes supply teachers, contractors and volunteers). It is essential that any allegation of abuse made against a teacher or other member of staff or volunteer in a school or college is dealt with very quickly, in a fair and consistent way that provides effective protection for the child and, at the same time supports the person who is the subject of the allegation.

1.7 Staff and volunteers should feel able to raise concerns about poor or unsafe practice and potential failures in the safeguarding practice. Appropriate whistleblowing procedures are suitably reflected in staff training and staff codes of conduct and are in place for such concerns to be raised with the relevant leadership team.

1.8 A 'case manager' will lead any investigation. This will be the Principal/Headteacher, or the Chair of Governors where the Principal/Headteacher is the subject of the allegation. In the case of the CEO the 'case manager' will be a member from the Trust Board and if a member of the Trust Central Team the 'case manager' will be a Director or the Chief Finance Officer. The case manager will be identified at the earliest opportunity.

## **2. Supply Teachers and all contracted staff**

2.1 In some circumstances schools and colleges will have to consider an allegation against an individual not directly employed by them, where its disciplinary procedures do not fully apply, for example, supply teachers provided by an employment agency or business.

- 2.2 Whilst schools and colleges are not the employer of supply teachers, they should ensure allegations are dealt with properly. In no circumstances should a school or college decide to cease to use a supply teacher due to safeguarding concerns, without finding out the facts and liaising with the local authority designated officer (LADO) to determine a suitable outcome. Governing bodies and proprietors should discuss with the agency whether it is appropriate to suspend the supply teacher, or redeploy them to another part of the school, whilst they carry out their investigation.
- 2.3 Agencies should be fully involved and co-operate in any enquiries from the LADO, police and/or children's social care. The school or college will usually take the lead because agencies do not have direct access to children or other staff, so they will not be able to collect the facts when an allegation is made, nor do they have all the relevant information required by the LADO as part of the referral process. Supply teachers, whilst not employed by the school or college, are under the supervision, direction and control of the governing body or proprietor when working in the school or college. They should be advised to contact their trade union representative if they have one, or a colleague for support. The allegations management meeting which is often arranged by the LADO should address issues such as information sharing, to ensure that any previous concerns or allegations known to the agency are taken into account by the school during the investigation.
- 2.4 When using an agency, schools and colleges should inform the agency of its process for managing allegations. This should include inviting the agency's human resource manager or equivalent to meetings and keeping them up to date with information about its policies.

### **3. Governors**

- 3.1 If an allegation is made against a Local Governing Body member, relevant local procedures should be followed. Where an allegation is substantiated, they should be considered for removal from office under the Articles of Association and the requirements of the Companies Act (2006).
- 3.2 If an allegation is made against a member of the Trust Board, the applicable local procedures will apply. Where an allegation is substantiated, they should be considered for removal from office under the Articles of Association and the requirements of the Companies Act (2006).

### **4. Initial response to an allegation**

- 4.1 Where the school or college identify a child has been harmed, that there may be an immediate risk of harm to a child or if the situation is an emergency, immediate contact is to be made to children's social care and as appropriate the police as per the processes explained in [Part One of Keeping Children Safe in Education 2021](#).
- 4.2 There are two aspects to consider when an allegation is made:
- Looking after the welfare of the child - the designated safeguarding lead is responsible for ensuring that the child is not at risk and referring cases of suspected abuse to the local authority children's social care.
  - Investigating and supporting the person subject to the allegation - the case manager should discuss with the LADO, the nature, content and context of the allegation, and agree a course of action.
- 4.3 When dealing with allegations, schools and colleges should:
- apply common sense and judgement;
  - deal with allegations quickly, fairly and consistently; and
  - provide effective protection for the child and support the person subject to the allegation.

4.4 Schools and colleges should ensure they understand the local authority arrangements for managing allegations, including the contact details and what information the LADO will require when an allegation is made. Before contacting the LADO, schools and colleges should conduct basic enquiries in line with local procedures to establish the facts to help them determine whether there is any foundation to the allegation, being careful not to jeopardise any future police investigation. For example:

- was the individual in the school or college at the time of the allegations?
- did the individual, or could they have, come into contact with the child?  are there any witnesses? and,  was there any CCTV footage?

4.5 These are just a sample of example questions. Schools and colleges should be familiar with what initial information the LADO will require. This information can be found in local policy and procedural guidance provided by the LADO service.

4.6 When to inform the individual of the allegation should be considered carefully on a case by case basis, with guidance as required from the LADO, and if appropriate children's social care and the police.

4.7 If there is cause to suspect a child is suffering, or is likely to suffer significant harm, a strategy discussion involving the police and/or children's social care will be convened in accordance with the statutory guidance [Working Together to Safeguard Children](#). If the allegation is about physical contact, for example restraint, the strategy discussion<sup>3</sup> or initial evaluation with the LADO should take into account that teachers and other school and college staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour. Further information about the use of reasonable force can be found at paragraph 150 in Part 2 of this guidance and on GOV.UK.

4.8 Where the case manager is concerned about the welfare of other children in the community or the member of staff's family, they should discuss these concerns with the designated safeguarding lead and make a risk assessment of the situation. It may be necessary for the designated safeguarding lead to make a referral to children's social care.

4.9 Where it is clear that an investigation by the police or children's social care is unnecessary, or the strategy discussion or initial assessment decides that is the case, the LADO should discuss the next steps with the case manager.

## 5. No Further Action

5.1 Where the initial discussion leads to no further action, the case manager and the LADO should:

- record the decision and justification for it; and,
- agree on what information should be put in writing to the individual concerned and by whom.

## 6. Further Enquiries

6.1 Where further enquiries are required to enable a decision about how to proceed, the LADO and case manager should discuss how and by whom the investigation will be undertaken. In straightforward cases, the investigation should normally be undertaken by a senior member of the school's or college's staff.

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<sup>3</sup> The purpose of a strategy discussion and those likely to be involved is described in Working Together to Safeguard Children

- 6.2 Where there is a lack of appropriate resource within the school or college, or the nature or complexity of the allegation requires it, the allegation will require an independent investigator. Please contact the COLAT Human Resources Team for further guidance.
- 6.3 The case manager should monitor the progress of cases to ensure that they are dealt with as quickly as possible in a thorough and fair process. Reviews should be conducted at fortnightly or monthly intervals, depending on the complexity of the case.
- 6.4 Wherever possible, the first review should take place no later than four weeks after the initial assessment. Dates for subsequent reviews, ideally at fortnightly intervals, should be set at the review meeting if the investigation continues. The LADO will provide advice and guidance to schools and colleges when considering allegations against adults working with children. The LADO's role is not to investigate the allegation, but to ensure that an appropriate investigation is carried out, whether that is by the police, children's social care, the school or college, or a combination of these.

## 7. Suspension

- 7.1 Suspension should not be an automatic response when an allegation is reported. All options to avoid suspension should be considered prior to taking that step. The case manager must consider carefully whether the circumstances warrant suspension from contact with children at the school or college, or until the allegation is resolved. It should be considered only in cases where there is cause to suspect a child or other children at the school or college is/are at risk of harm, or the case is so serious that it might be grounds for dismissal. If in doubt, the case manager should seek advice from the COLAT Human Resources views from their personnel adviser and the LADO, as well as the police and children's social care where they have been involved.
- 7.2 Where a school or sixth form college is made aware that the Secretary of State has made an interim prohibition order, in respect of an individual who works at a school or sixth form college, they should take immediate action to ensure the individual does not carry out work in contravention of the order. This means that pending the findings of the TRA investigation, the individual **must not** carry out teaching work. School and colleges should have clear policies on pay arrangements whilst the person is suspended or where there is an interim prohibition order in place.
- 7.3 In many cases, an inquiry can be resolved quickly and without the need for suspension. The 'case manager' along with COLAT Human Resources will decide on whether the individual should continue to work at the school or college, based on consultation with the LADO who will provide relevant information they have received from the police or children's social care on whether they have any objections to the member of staff continuing to work during the investigation of the case. Those involved should be as inventive as possible to avoid suspension.
- 7.4 Based on advice from COLAT Human Resources and a risk analysis drawn up with the LADO, the following alternatives should be considered by the case manager before suspending a member of staff:
- redeployment within the school or college so that the individual does not have direct contact with the child or children concerned;
  - providing an assistant to be present when the individual has contact with children;
  - redeploying to alternative work in the school or college 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 member of staff. this decision should only be made if it is in the best interest of the child or children concerned and takes accounts of their views. It should be made clear that this is not a punishment and parents have been consulted; or,

- temporarily redeploying the member of staff to another role in a different location, for example to an alternative school within the trust.

- 7.5 These alternatives allow time for an informed decision regarding the suspension, this will, however, depend upon the nature of the allegation. The case manager should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unfounded, unsubstantiated, malicious, or false.
- 7.6 If immediate suspension is considered necessary, the case manager should record the rationale and justification for such a course of action. This should also include what alternatives to suspension have been considered and why they were rejected. **See Appendix 2.**
- 7.7 Where it has been deemed appropriate to suspend the person, written confirmation should be given within one working day, giving as much detail as appropriate for the reasons for the suspension. It is not acceptable for an employer to leave a person who has been suspended without any support. The person should be informed at the point of their suspension who their named contact is within the organisation and provided with their contact details.
- 7.8 Children's social care or the police may give their view to the LADO and they cannot require the case manager to suspend a member of staff or a volunteer, although the case manager should give appropriate weight to their views. The power to suspend is vested with the Trust as employer. However, where a strategy discussion, or initial assessment, concludes that there should be enquiries by the children's social care, and/or an investigation by the police, the LADO should canvass police and children's social care for views about whether the accused member of staff should be suspended from contact with children. Police involvement does not make it mandatory to suspend a member of staff; this decision should be taken on a case-by-case basis having undertaken a risk assessment about whether the person poses a risk of harm to children.

**Please seek further guidance from the COLAT Human Resources team.**

## **8. Supporting Those Involved**

- 8.1 As an employer, COLAT has a duty of care to their employees. Hence relevant managers should act to manage and minimise the stress inherent in the allegations process. Support for the individual is vital to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by the children's social care or the police. The individual should be advised to contact their trade union representative, if they have one, or a colleague for support. When appropriate they should also be given access to medical advice and the Employee Assistance Programme.
- 8.2 A named representative from the school should be appointed to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual. 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 should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

- 8.3 Parents or carers of a child or children involved should be told about the allegation as soon as possible if they do not already know of it. However, where a Strategy Meeting is required, or police or children’s social care services need to be involved, then consultation with those agencies should occur to agree what information can be disclosed to the parents. They should also be kept informed about the progress of the case and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but the parents or carers of the child should be told the outcome in confidence<sup>4</sup>.
- 8.4 Parents and carers should also be made aware of the requirement to maintain confidentiality about any allegations made against teachers whilst investigations are ongoing as set out in section 141F of the Education Act 2002. If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice.
- 8.5 In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children’s social care services, or the police as appropriate, should consider what support the child or children involved may need.

## 9. Confidentiality and Information sharing

- 9.1 In an allegation’s management meeting or during the initial assessment of the case, the agencies involved should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.
- 9.2 Where the police are involved, wherever possible the school or college should ask the police to obtain consent from the individuals involved to share their statements and evidence for use in any employment disciplinary process. This should be done as their investigation proceeds and will enable the police to share relevant information without delaying the conclusion of their investigation or any court case.
- 9.3 Children’s social care should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are in need of protection or services, so that any information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to the employer without delay.
- 9.4 The school and college **must** make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2011 amended the Education Act 2002, to introduce reporting restrictions. These provisions made it an offence (except in the limited circumstance expressly permitted by the legislation), for any person to publish any material that may lead to the identification of a teacher in a school<sup>5</sup> who has been accused by, or on behalf of, a child from the same school (where that identification would identify the teacher as the subject of the allegation).
- 9.5 The reporting restrictions apply until:
- the point that the accused person is charged with a relevant offence; or
  - the Secretary of State<sup>6</sup> or the General Teaching Council for Wales publishes information about an investigation or decision in a disciplinary case arising from the allegation.

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<sup>4</sup> In deciding what information to disclose, careful consideration should be given to the provisions of the Data Protection Act 1998, the law of confidence and, where relevant, the Human Rights Act 1998.

<sup>5</sup> Section 141F of the Education Act 2002 only applies to teachers in schools does not apply to colleges.

<sup>6</sup> Carried out by the Teaching Regulation Agency

- 9.6 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 court lifts the reporting restrictions in response to a request to do so.
- 9.7 The legislation imposing restrictions makes clear that “publication” of material that may lead to the identification of the teacher who is the subject of the allegation is prohibited. “Publication” includes “any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public”. This means that a parent who, for example, published details of the allegation on a social networking site, would be in breach of the reporting restrictions (if what was published could lead to the identification of the teacher by members of the public). It is imperative that parents are informed of the restrictions on publishing information.
- 9.8 In accordance with the [Authorised Professional Practice](#) published by the College of Policing in May 2017, the police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. In exceptional cases where the police would like to depart from that rule, for example an appeal to trace a suspect, they **must** apply to a magistrates’ court to request that reporting restrictions be lifted.
- 9.9 The ‘case manager’ should take advice from the designated officer(s), police and children’s social care to agree the following:
- who needs to know and, importantly, exactly what information can be shared;
  - how to manage speculation, leaks and gossip;
  - what, if any, information can be reasonably given to the wider community to reduce speculation; and
  - how to manage press interest if, and when, it should arise.

## 10. Allegation Outcomes

- 10.1 The definitions that should be used when schools and colleges determine the outcome of an allegation are set out below:
- **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 of 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; or,
  - **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made.
- 10.2 Ultimately the options open to the school or college depend on the nature and circumstances of the allegations and the evidence and information available. This will range from taking no further action, to dismissal or a decision not to use the person’s services in future. Suspension should not be the default position; an individual should be suspended only if there is no reasonable alternative. As per the guidance in part 7 above.
- 10.3 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.

As the employer COLAT, has a legal duty to make a referral to the DBS for consideration of whether inclusion on the barred lists is required<sup>7</sup>.

- 10.4 In the case of a member of teaching staff at a school or sixth form college, the case manager **must** consider whether to refer the matter to the TRA to consider prohibiting the individual from teaching<sup>8</sup>.
- 10.5 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 (paragraph 142 for further information).

## **11. Following a criminal investigation or a prosecution**

11.1 The police should inform the LADO and the employer immediately when:

- a criminal investigation and any subsequent trial is complete;
- it is decided to close an investigation without charge; or,
- it is decided not to continue to prosecute after the person has been charged.

11.2 In those circumstances, during the joint assessment meeting the LADO should discuss with the case manager and COLAT Human Resources 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 should also inform that decision. The options will depend on the circumstances of the case and the consideration should 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.

## **12. Unsubstantiated, unfounded, false or malicious allegations**

12.1 If an allegation is determined to be unsubstantiated, unfounded, false or malicious, the LADO, the case manager and COLAT Human Resources should consider whether the child and/or the person who has made the allegation is in need of help or may have been abused by someone else and this is a cry for help. In such circumstances, a referral to children's social care may be appropriate.

12.2 If a report is determined to be unsubstantiated, unfounded, false or malicious, the designated safeguarding lead should consider whether the child and/or the person who has made the allegation is in need of help or may have been abused by someone else and this is a cry for help. In such circumstances, a referral to children's social care may be appropriate. If a report is shown to be deliberately invented or malicious, the school or college, should consider whether any disciplinary action is appropriate against the individual who made it as per their own behaviour policy.

## **13. Returning to work**

13.1 Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the case manager along with COLAT Human Resources should consider how best to facilitate that. Guidance and advice can also be sought from the LADO. Most people will benefit from some help and support to return to work after a stressful experience.

<sup>7</sup> Disclosure and Barring Service – guidance on [Referrals to the DBS](#)

<sup>8</sup> Teacher Regulation Agency – guidance on [Referrals to the TRA](#)

13.2 Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The case manager should also consider how the person's contact with the child or children who made the allegation can best be managed if they are still attending the school or college.

#### **14. Managing the Situation and Exit Arrangements**

14.1 'Settlement agreements' by which a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, should not be used in cases of refusal to cooperate or resignation before the person's notice period expires. Such an agreement will not prevent a thorough police investigation where that is appropriate.

14.2 Schools and colleges should not cease their investigations if the person leaves, resigns or ceases to provide their services. It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate.

14.3 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. Guidance from COLAT Human Resources should be sought.

14.4 Other than where allegations are false, malicious, unsubstantiated, or unfounded, the outcome should be made clear when providing references to prospective employers. This is particularly important where the person moves into another position involving working with children.

14.5 It is not appropriate to reach a settlement if the person subject to the allegation resigns or their services cease to be used. However, in limited circumstances schools and colleges sometimes use settlement agreements to end the employment relationship on agreed terms, but not where there is an allegation that the individual poses a risk to children.

14.6 Where a settlement is used, it will not prevent the Trust from:

- fulfilling their legal duty to refer cases to the DBS where the referral criteria are met Non-compliance of this duty<sup>9</sup> is a criminal offence; or
- providing a reference to potential employers when requested; or
- considering whether to make a referral to the Teaching Regulations Agency where the criteria<sup>10</sup> are met

#### **15. Record keeping**

15.1 Details of allegations following an investigation that are found to have been malicious or false should be removed from personnel records, unless the individual gives their consent for retention of the information. However, for all other allegations, it is important that the following information is kept on the file of the person accused:

- a clear and comprehensive summary of the allegation;

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<sup>9</sup> This also applies to 16-19 Academies, Special Post-16 institutions and Independent Training Providers <sup>10</sup> Sections 141D and 141E of the Education Act 2002 do not apply to colleges (other than sixth form colleges).

- details of how the allegation was followed up and resolved;
- a note of any action taken, and decisions reached and the outcome as categorised above;
- a copy provided to the person concerned, where agreed by children's social care or the police; and,
- a declaration on whether the information will be referred to in any future reference.

15.2 The purpose of the record is to enable accurate information to be given in response to any future

request for a reference, where appropriate. It will provide clarification in cases where future DBS checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.

15.3 Schools and colleges have 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 (further information can be found on the [IICSA website](#)). All other records should be retained at least until the accused has reached normal pension age or for a period of 10 years from the date of the allegation if that is longer.

15.4 The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on record retention. This can be found on the [ICO website](#).

## **16. Timescales**

16.1 Cases in which an allegation was found to be false, unfounded, unsubstantiated or malicious should not be included in employer references. Any repeated concerns or allegations which have all been found to be false, unfounded, unsubstantiated or malicious should also not be included in any reference. Substantiated allegations should be included in references, provided that the information is factual and does not include opinions.

## **17. Learning lessons**

17.1 Throughout the process in handling allegations and at conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the case manager to determine whether there are any improvements to be made to the school's or college's procedures to help prevent similar events in the future. This should include issues arising from any decision to suspend the member of staff, the duration of the suspension and whether or not suspension was justified. Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated. The LADO and case manager should consider how future investigations of a similar nature could be carried out without suspending the individual.

17.2 For all other cases the case manager along with COLAT Human Resources should consider the facts and determine whether any improvements can be made.

## **18. Non recent allegations**

18.1 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 children social care and the police. Abuse can be reported no matter how long ago it happened.

## **Section Two: Concerns that do not meet the harm threshold**

It is essential that the Trust has policies and processes to deal with concerns (including allegations) which do not meet the harm threshold set out above. Concerns may arise in several ways and from a number of sources. For example: suspicion; complaint; or disclosure made by a child, parent or other adult within or outside of the organisation; or as a result of vetting checks undertaken. It is important that appropriate policies and processes are in place to manage and record any such concerns and take appropriate action to safeguard children.

### **19. Low level concerns**

19.1 As part of their whole school approach to safeguarding, schools and colleges should ensure that they promote an open and transparent culture in which all concerns about all adults working in or on behalf of the school or college (including supply teachers, volunteers and contractors) are dealt with promptly and appropriately.

19.2 Creating a culture in which all concerns about adults (including allegations that do not meet the harms threshold) are shared responsibly and with the right person, recorded and dealt with appropriately, is critical. If implemented correctly, this should encourage an open and transparent culture; enable schools and colleges to identify concerning, problematic or inappropriate behaviour early; minimise the risk of abuse; and ensure that adults working in or on behalf of the school or college are clear about professional boundaries and act within these boundaries, and in accordance with the ethos and values of the institution.

### **20. What is a low level concern?**

20.1 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 in part 1 above. 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.

20.2 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; or,
- using inappropriate sexualised, intimidating or offensive language.

20.3 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.

20.4 It is crucial that any such concerns, including those which do not meet the harm threshold, are shared responsibly and with the right person, and recorded and dealt with appropriately. Ensuring they are dealt with effectively should also protect those working in or on behalf of schools and colleges from potential false allegations or misunderstandings.

## **21. Staff code of conduct and safeguarding policies**

21.1 As good practice the COLAT Board of Trustees has set out a range of low-level concerns within the COLAT Staff Code of Conduct and COLAT Safeguarding Policy.

21.2 The key purpose of these policies is to create and embed a culture of openness, trust and transparency in which the Trust's values and expected behaviour which are set out in the staff code of conduct are constantly lived, monitored and reinforced by all staff. As well as clarifying what a low-level concern is and the importance of sharing low-level concerns.

21.3 COLAT Schools and colleges ensure that our 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;
- empowered to share any low-level safeguarding concerns;
- able to address unprofessional behaviour and support individuals to correct it at an early stage;
- able to provide a responsive, sensitive and proportionate handling of such concerns when they are raised; and,
- able to help identify any weakness in the school or colleges safeguarding system.

## **22. Sharing low-level concerns**

22.1 Low-level concerns about a member of staff, supply staff, volunteer or contractor should be reported as set out in part one above. Reports about supply staff and contractors should be notified to their employers, so any potential patterns of inappropriate behaviour can be identified.

22.2 Schools and colleges should ensure they create an environment where staff are encouraged and feel confident to self-refer, where, for example, 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 such a way that they consider falls below the expected professional standards.

## **23. Recording low-level concerns**

23.1 All low-level concerns should be recorded in writing. The record should include details of the concern, the context in which the concern arose, and action taken. The name of the individual sharing their concerns should also be noted, if the individual wishes to remain anonymous then that should be respected as far as reasonably possible.

23.2 Schools and colleges can decide where these records are kept, and they must be kept confidential, held securely and comply with the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR).

23.3 Records should be reviewed so that potential patterns of concerning, problematic or inappropriate behaviour can be identified. Where a pattern of such behaviour is identified, the school or college should decide on a course of action, either through its disciplinary procedures or where a pattern of behaviour moves from a concern to meeting the harms threshold, in which case it should be referred to the LADO. Consideration should also be given to whether there are wider cultural issues within the school or college that enabled the behaviour to occur and where appropriate policies could be revised or extra training delivered to minimise the risk of it happening again.

23.4 In line with the COLAT Data Protection Policy, such information should be retained on the employees personnel file and disposed of 6 years after employment ceases.

## **24. References**

24.1 in line with Keeping Children Safe in Education 2021, leader only provide substantiated safeguarding allegations in references. Low level concerns should not be included in references unless they relate to issues which would normally be included in a reference, for example, misconduct or poor performance. It follows that a low-level concern which relates exclusively to safeguarding (and not to misconduct or poor performance) should not be referred to in a reference. However, where a lowlevel concern (or group of concerns) has met the threshold for referral to the LADO and found to be substantiated, it should be referred to in a reference.

## **25. Responding to low-level concerns**

25.1 The procedure for responding to reports of low-level concerns is as part four above. If the concern has been raised via a third party, the Headteacher/Principal should collect as much evidence as possible by speaking:

- directly to the person who raised the concern, unless it has been raised
- anonymously;  to the individual involved and any witnesses.

25.2 The information collected will help them to categorise the type of behaviour and determine what further action may need to be taken. All this needs to be recorded along with the rationale for their decisions and action taken.

**Please do seek further guidance from the COLAT Human Resources team.**

## Appendix One: Key Contacts

### Academy Name

| Key contacts at academy                                     |                      |              |  |
|---|----------------------|--------------|--|
|   | Name                 | Phone Number | Email address  |
| Principal/Headteacher                                       |                      |              |  |
| Deputy Headteacher  |                      |              |  |
| Chair of Local Governing Body                               |                      |              |  |
| Designated Safeguarding Lead (DSL)                          |                      |              |  |
| COLAT Human Resources Director                              | Katyryna Zamulinskyj | 07543221217  | <a href="mailto:Katyryna.zamulinskyj@cityoflondon.gov.uk">Katyryna.zamulinskyj@cityoflondon.gov.uk</a> |
| Key contacts at local authority                             |                      |              |  |
|   | Name                 | Phone number | Email address  |
| Designated Officer  |                      |              |  |
| Child Protection Adviser                                    |                      |              |  |
| Child Protection Adviser                                    |                      |              |  |
| Child Protection Adviser                                    |                      |              |  |
| Child Protection Adviser                                    |                      |              |  |
| Safeguarding Children Service Manager                       |                      |              |  |
| Child Protection Administration (to contact CPA for advice) |                      |              |  |
| Child Abuse Investigation Team (CAIT)                       |                      |              |  |

Please note this is not an exhaustive list, where required, local amendments should be made

## Appendix Two: Suspension Risk Assessment

The following factors need to be considered:

| Nature of the alleged incident   | Notes re consideration |
|--|------------------------|
| <ul style="list-style-type: none"> <li>• Duration and frequency of alleged behaviour</li> <li>• Degree of threat or coercion</li> <li>• Extent of pre-meditation</li> <li>• Degree and nature of alleged harm</li> </ul>                                   |                        |
| Information re the member of staff / volunteer   |                        |
| <ul style="list-style-type: none"> <li>• Previous concerns</li> <li>• Previous allegations</li> <li>• Contact with child(ren) / young person / people, concerned and generally</li> </ul>  |                        |
| Information re child(ren) / young person / people concerned  |                        |
| <ul style="list-style-type: none"> <li>• Age and level of understanding</li> <li>• Special needs and vulnerability</li> <li>• Impact on health and development</li> <li>• Previous allegations made</li> </ul>   |                        |
| Information re parent(s) / carer(s)  |                        |
| <ul style="list-style-type: none"> <li>• Attitude to allegation</li> <li>• Expectations</li> <li>• Previous allegations</li> </ul>   |                        |
| Investigation  |                        |
| <ul style="list-style-type: none"> <li>• Possibility of the investigation being impeded should the person remain in work</li> <li>• Possibility of further allegations being made / issues arising for person if in school during investigation</li> </ul> |                        |
| Health and Safety  |                        |
| <input type="checkbox"/> Potential risks to the person's health and safety should they remain in school (impact of threats from parents / carers / potential press interest etc.)  |                        |
| Alternatives to suspension   | Potential Impact(s)    |
| <input type="checkbox"/> Explore and assess all other options e.g. redeployment or supervision   |                        |

Risks identified and action plan:

Decision to Suspend: Yes / No

Date: .....

Particular views of those concerned: (Designated Officer/Police/Principal or Headteacher/DSL/Education Welfare Officer/COLAT Human Resources)

1. Name of person responsible for the decision:

\_\_\_\_\_ 2.

Name of person completing assessment:

\_\_\_\_\_

3. If applicable - Name of person responsible for communicating decision to suspend to member of staff / volunteer (this should be communicated in writing as soon as practicable as determined by the strategy discussion):

\_\_\_\_\_

4. Name of person nominated to keep suspension under review

\_\_\_\_\_

A copy of this assessment should be retained on file by the academy in accordance with the record keeping requirements of the statutory guidance. If the allegation/s are found to be malicious, the assessment should be removed from file and destroyed.

**Appendix Three: Determining if an individual has behaved or may have behaved in a way that indicates they may not be suitable to work with children**

This document should be used when determining whether the actions of a member of staff, a member of agency staff or a volunteer meet the criteria set out in the fourth bullet point of paragraph 1 above, in that the individual: **Behaved or may have behaved in a way that indicates they may not be suitable to work with children.**

This checklist is not intended replace suspension/formal disciplinary investigations.

|   |                                   |
|---|-----------------------------------|
| <b>Name of individual</b>   |                                   |
| <b>Job role</b>   |                                   |
| <b>Allegation/concern/conviction (give brief description)</b>   |                                   |
| <b>Date of allegation/concern/conviction</b>  |                                   |
| <b>Date of your assessment</b>  |                                   |
| <b><u>Area of discussion</u></b>  | <b><u>Summary of response</u></b> |
| <b>LADO Advice (date, name of contact and advice given)</b>   |                                   |
| <b>Initial consideration to any policy breaches (ICT, Code of Conduct, Substance misuse, Teacher standards etc)</b>   |                                   |
| <b>Initial evidence</b>   |                                   |
| <b>Individual's response to allegation/concern/conviction (have they been open and honest, did they come to you with the issue etc)</b>   |                                   |
| <b>What was the 'trigger/cause' of the concern/allegation/conviction (including any extenuating circumstances)</b>  |                                   |
| <b>Relevance of allegation/concern/conviction to individual and school setting</b><br><b>Could the above 'trigger/cause' occur in a school setting?</b>   |                                   |
| <b>Is the allegation/concern/conviction being formally investigated under disciplinary procedures</b>   | YES / NO                          |
| <b>Based on the above evidence and advice taken, do you believe the employee:</b><br><b>behaved or may have behaved in a way that indicates they may not be suitable to work with children?</b> | YES / NO                          |

|                          |      |  |
|--------------------------|------|--|
| <b>Decision made by:</b> | Name |  |
|--------------------------|------|--|

|                     |          |  |
|---------------------|----------|--|
|                     | Position |  |
| <b>Signature:</b>   |          |  |
| <b>Advised by:</b>  | Name     |  |
|                     | Position |  |
| <b>Review date:</b> |          |  |