



# **MANAGING SAFEGUARDING CONCERNS and ALLEGATIONS AGAINST STAFF POLICY**

Reviewed: Autumn 2022

Review Frequency: Every 2 years

Approved by: Board of Trustees

## **1. Purpose**

This document sets the way in which the Aspire Academies Trust manages allegations against staff and safeguarding concerns.

## **2. Related documents:**

Staff Code of Conduct

Staff Disciplinary Policy

Child Protection / Safeguarding Policy

Whistle-Blowing Policy

Low Level Concerns Policy

Keeping Children Safe in Education: September 2022 (specifically Part 4)

Working Together to Safeguard Children

Positive Environments Where Children Can Flourish

## **3. Introduction**

Aspire Academies Trust takes its responsibility and duty of care for its pupils very seriously. We recognise that where a member of staff may possibly have harmed a pupil, this must be investigated thoroughly, while in a manner that does not prejudice either the pupil or the member of staff. Any such investigation of an allegation against a member of staff will follow the objective, professional standards and procedures set out within this document.

## **4. Delegation of Authority**

Aspire Academies Trust has delegated responsibility for the operation and management of this policy and procedures to the Principal in each academy, who will keep the Chair of Trustees, CEO, Chair of Local Advisory Body and Senior HR Officer informed at every stage.

If this relates to, or might relate to, a 'Low-Level Concern', reference must be made to the Aspire **Low-Level Concerns Policy**.

- Where the complaint relates to an academy's Principal; the Executive Principal assumes responsibility.
- Where the complaint relates to a Governor, the Chair of LAB assumes responsibility.
- Where the complaint relates to the Executive Principal, the CEO assumes responsibility.
- Where the complaint relates to the CEO or a Trustee, the Chair of the Board of Trustees assumes responsibility.

## **5. The Law**

The framework for managing cases of allegations against people who work with children is set out in 'Keeping Children Safe In Education September 2022': Statutory guidance from the DFE issued under section 175 of the Education Act 2002' which provides an overview of how allegations should be handled.

## **6. Initial Allegation Made to the Academy**

The term Principal is used here as the individual responsible, however please refer to the delegation of authority for the individual who takes responsibility in certain circumstances.

Any allegation by a member of staff on a pupil must be reported to the Principal. Should the initial allegation first be made to any other member of staff then that member of staff must either request the person raising the allegation to report it to the Principal, or if that is not possible, to pass details of the allegation to the Principal immediately.

Should the allegation be made against the Principal then this should be brought to the attention of the Executive Principal immediately.

The initial response to an allegation

Where the school or identifies a child has been harmed, that there may be an immediate risk of harm to a child or if the situation is an emergency, they should contact the Local Authority Designated Officer (LADO), children's social care and as appropriate the police immediately.

There are two aspects to consider when an allegation is made:

1. 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.
2. Investigating and supporting the person subject to the allegation – the Principal should discuss with the LADO, the nature, content and context of the allegation, and agree a course of action.

When dealing with allegations, we aim to:

- 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.

Where the allegation meets any of the following criteria, and therefore the harms threshold, then the Principal should report the allegation to the CEO and the LADO the same day that the allegation is received; a teacher, member of staff, volunteer or contractor 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 are unsuitable to work with children.
- behaved towards a child or children in a way that indicates that he/she may pose a risk of harm to children

Where concerns are raised that do not meet the harms threshold and are therefore a low-level concern, then these should be shared with the Principal straight away who will address the matter (see Low Level Concerns policy for further detail)

The term 'low-level' concern does not mean that it is insignificant, it means that the adult's behaviour towards a child does not meet the threshold (see KCSIE). 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 may have acted in a way that:

- is inconsistent with an organisation’s staff code of conduct, including inappropriate conduct outside of work, and
- does not meet the allegation threshold, or is otherwise not serious enough to consider a referral to the LADO – but may merit consulting with and seeking advice from the LADO, and on a no-names basis if necessary (KCSIE)

### **7. Initial Consideration**

The Principal (or known alternative individual responsible) will discuss the matter with the Local Authority Designated Officer and provide any further details of the allegation and the circumstances in which it was made. The Principal should not investigate the allegation at this stage. The discussion will also consider whether there is evidence or information that establishes that the allegation is false or unfounded. If the allegation is not patently false and there is cause to suspect that a child is suffering or is likely to suffer significant harm, the Local Authority Designated Officer will immediately refer to Children’s Social Care and ask for a strategy discussion in accordance with Working Together to Safeguard Children to be convened straight away. In those circumstances the strategy discussion should include the Local Authority Designated Officer and the Principal.

If there is not cause to suspect that “significant harm” is an issue, but a criminal offence might have been committed, the Local Authority Designated Officer should immediately inform the Police and convene a similar discussion to decide whether a Police investigation is needed. That discussion will also involve the academy and any other agencies involved with the child.

### **8. Action Following Initial Consideration**

Where the allegation does not involve a possible criminal offence it will be for the CEO and Principal (or alternative individual responsible as per paragraph 4) to deal with it in keeping with this policy. In such cases, if the nature of the allegation does not require formal disciplinary action, the Principal should institute appropriate action within three working days.

If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days. Where further investigation is required the Principal should discuss who will undertake that with the Local Authority Designated Officer and the Aspire Central Services Team. Any investigation will be conducted in keeping with the Trust’s Disciplinary Policy.

The investigating officer should aim to provide a report to the Principal within 10 school days. On receipt of the report of the investigation, the Principal should consult the Local Authority Designated Officer and the Aspire Central Services Team, and decide whether a disciplinary hearing is needed, within two school days. If a hearing is needed it should be held within 15 school days. In any case in which Children’s Social Care has undertaken enquiries to determine whether the child or children are in need of protection, the Principal should take account of any relevant information obtained in the course of those enquiries when considering disciplinary action. The LADO should continue to liaise with the academy to monitor progress of the case and provide advice or support when required or requested.

### **9. Cases Where a Crime may have been Committed**

If there is no cause to suspect that significant harm is an issue, but a criminal offence might have been committed, the LADO should immediately inform the Police and convene a similar discussion to decide whether a police investigation is needed. That discussion should also involve the Academy.

Where the involvement of Children's Social Work Services is not required as the pupil is not assessed to be at risk of Significant Harm but a Police investigation continues, the LADO should agree with the Police, the Academy, Aspire Central Services Team, and any other agency involved with the child the nature of the allegation and how this must be addressed. This Joint Evaluation Discussion must take place within one working day of the referral and must consider how to progress enquiries e.g. a criminal process parallel with a disciplinary process or whether disciplinary action needs to be suspended until Police enquiries/prosecution are completed. These investigations must be reviewed by the Police no later than 4 weeks after the Joint Evaluation Discussion and thereafter at fortnightly or monthly intervals. If the Police and/or the Crown Prosecution Service (CPS) decide not to charge the individual with an offence, or decide to administer a caution, or the person is acquitted by a Court, the Police should pass all information they have which may be relevant to a disciplinary case to the academy without delay.

In those circumstances, the Principal should deal with the case in consultation with the LADO. If the person is convicted of an offence, the Police should also inform the employer straight away so that appropriate action can be taken.

#### **10. Allegations requiring an immediate referral for child protection**

The following situations will require immediate referral to child protection:

- Where the student has suffered, is suffering, or is likely to suffer significant or serious harm.
- Where the student alleges that a criminal offence has been committed.
- Any allegation of a sexual nature.

The Principal should be aware that other complaints may also be regarded as child protection issues and as a result each allegation should be carefully considered in consultation with the LADO before taking any action. Where allegations of the above are referred to Children's Services, subsequent action will be in accordance with the Local Safeguarding Children Board procedures.

#### **11. Suspension**

The possible risk of harm to children posed by an accused person needs to be effectively evaluated and managed in respect of the child(ren) involved in the allegations. In some cases, that will require the academy to consider suspending the person until the case is resolved. Suspension must not be an automatic response and any such decision should not be taken lightly when an allegation is reported.

If the academy is concerned about the welfare of other children in the community or the teacher's family, those concerns should be reported to the LADO or police but suspension is highly unlikely to be justified on the basis of such concerns alone. Suspension should only be considered in a case where there is cause to suspect a risk of significant harm to a child or children at the academy, or where the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal.

Ultimately, no employee should be suspended automatically, or without careful thought being given to the particular circumstances of the case. The academy must consider carefully whether the circumstances of the case warrant a person being suspended from contact with children at the academy until the allegation is resolved, and may wish to seek advice from the Trust's Senior HR Officer and/or their specialist advisers, who may suggest considering alternative arrangements. 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 academy must always

consider the potential permanent professional reputational damage that can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended.

Where it has been deemed appropriate to suspend the person, written confirmation should be dispatched within one working day, giving the reasons 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. Local authority children's social care services or the police cannot require the academy to suspend a member of staff or a volunteer, although the academy should give appropriate weight to their advice.

The power to suspend is vested in the Principal having has permission from CEO or Executive Principal. 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 to inform the academy 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 take into account the context of the allegation, background information in relation to the member of staff, and any outcome following the strategy meeting. It should also take into account 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.

## **12. Strategy Meeting**

A Strategy Meeting will be convened within two school days of the referral being made and chaired by the Child Protection and Review Unit. The LADO and all relevant personnel including, where appropriate, the Principal and Aspire's Senior HR Officer, should attend this meeting in order to share information and participate in the planning of any enquiries.

The purpose of the strategy meeting is to:

- Consider the risk to the pupil and other pupils
- Share all relevant information about the person who is the subject of the allegation and about the alleged victim.
- Determine the need for investigation and by whom
- Plan the investigation/enquiries and set timescales for tasks to be undertaken
- Consider whether any other children are affected by the allegations e.g. the persons own children, grandchildren or children in agency settings, or clubs
- Ensure that the person who is the subject of the allegation is kept informed and supported
- Decide how regular information and support will be provided to the child and family and by whom
- Plan all interviews and agree who should undertake them so that there is no confusion between a criminal investigation and disciplinary processes
- Consider the need to inform relevant parties.
- Jointly consider how to manage any media interest.
- Consider whether the circumstances require the person who is subject to the allegation to be suspended from contact with students, though this may change as the investigation progresses and should be reviewed regularly.
- If the allegation is against a governor, a temporary member of staff or a supply teacher, a visitor or contractor, the appropriate course of action needs to be considered. (KCSIE)

### **13. Attendance**

Attendance at the strategy meeting will usually include representatives from Children's Services. The member of staff who is the subject of the allegation will not be invited to attend the meeting; however, the strategy meeting will agree when and how the member of staff will be informed. The confidential minutes of the strategy meeting will be circulated by the Chair of the meeting to relevant parties.

### **14. Communication following the strategy meeting**

The following should be informed of the outcome of the investigation:

- The pupil making the allegation and their parent/carer, informing them of the likely course of action, the matter is confidential and must not be discussed.
- The member of staff against whom the allegation has been made. This should include the likely course of action. A record should be kept on the individual's personal file.
- The Chair of LAB and CEO/Executive Principal should be informed of the likely course of action.

#### Allegation outcomes

The definitions used to 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.

Subsequent Strategy Meetings should be held fortnightly, or at a maximum, monthly to review progress until the case is closed.

### **15. Monitoring progress**

The LADO should regularly monitor the progress of cases, either via review Strategy Meetings, or by liaising with the Police and/or Children's Social Work Services colleagues or the academy, as appropriate. Reviews should be conducted at fortnightly or monthly intervals depending on the complexity of the case.

### **16. Referral to DFE / Regulatory Bodies**

If on conclusion of the case the academy terminates the staff member's employment or ceases to use the person's services, or the person ceases to provide his or her services, the academy should consult the Local Authority Designated Officer about whether a referral to the Disclosure & Barring Service (DBS) is required. If a referral is appropriate the report should be made within one month. Similarly, referrals to any professional / regulatory bodies will be considered in cases of professional misconduct.

### **17. Keeping records**

Details of allegations that have been found to be malicious should be removed from personnel files.

In all other cases it is important that a clear, comprehensive and confidential record of any allegation is made even if police/disciplinary action is not taken or proven. This should include details of the

allegation, how the allegation was followed up and resolved and a note of any action taken, including any sanctions imposed. The record should be copied to the individual and kept on the member of staff's personnel file for until normal retirement age or for ten years if that is a longer period of time.

The purpose of this record is to enable accurate information to be given in response to any future reference request if the individual leaves the Trust. It is also important that accurate and detailed information is held in the event that the Disclosure and Barring Service (DBS) makes requests for further information. This information is given to the DBS is referred due to the nature of the allegation. A comprehensive record of all allegations will provide clarification in cases where a future DBS disclosure reveals information from the police about an allegation which did not result in a criminal conviction.

### **18. Confidentiality**

Confidentiality is vital and should be maintained at all times. 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 Principal and/or CEO and Board of Trustees.

### **19. False allegations**

If an allegation is proved to be false and/or malicious, action should be taken to determine whether the person who made the allegation is in need of services or may have been abused by someone else. In the case of a pupil deliberately inventing or making a malicious allegation, the Principal should consider talking action in accordance with the Trust's Behaviour Policy. If it is clear to the Principal 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 false and/or malicious, an investigation should take place in accordance with the Trust's Disciplinary Policy. The Police may also consider taking action against the individual making the allegation.

### **20. The Trust as a Learning Organisation**

Where an allegation has been made (founded or unfounded), lessons can be learned. At the conclusion of a case, relevant parties should discuss and review their actions, policies, communications and processes, and identify what can be learned and what should be put into place to improve practice in the future.

### **21. Information Sharing**

In a strategy meeting or initial evaluation of the case the agencies concerned must share all relevant information they have about the person who is the subject of an allegation, and about the alleged victim, staff attending the strategy meeting should be prepared with the appropriate information – e.g. full name, address, when DBS check was completed, start date, involvement in youth activities, children of their own and any other information that could be helpful.

As per procedures the police should obtain consent from the individuals concerned to share the statements and evidence they obtain with the academy for disciplinary purposes. This should be done as their investigation proceeds rather than after it has concluded. This will enable the police to share relevant information without delay at the conclusion of their investigation or any court case. Children's Social Services should adopt a similar procedure when making enquiries to determine whether the student named in the allegation is 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 Academy without delay.

## **22. Resignations and Settlement Agreements**

The fact that a person tenders his or her resignation, or ceases to provide their services, must not under any circumstances prevent an allegation being followed up in accordance with these procedures.

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 with the process.

Wherever possible the person should be given a 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.

Settlement agreements (where a person agrees to resign if the Trust agrees not to pursue disciplinary action) may 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 NCTL where circumstances require that. For avoidance of doubt and to provide safeguards, no Settlement Agreement can be entered into without the authorisation of the CEO. In any case where Settlement Agreements are approved, the Trust must comply with EFA policy, which may include disclosure information, which would otherwise be considered confidential.

## **23. References**

Cases in which an allegation was proven to be false, unsubstantiated, unfounded or malicious should not be included in employer references. Nor should any history of repeated concerns or allegations, which have all been found to be unsubstantiated, malicious.

## **24. Support**

### Supporting the Employee

The Trust has a duty of care to its employees and will always act to manage and minimise the stress inherent in the allegations and disciplinary process. Individuals will 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 local authority social care services or the police. The individual will be advised to contact their trade union representative, if they have one, or a colleague for support. They may also be given access to welfare counselling or medical advice. The Principal should appoint a named representative 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. That may include support from occupational health. 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, and that any return to work is managed thoughtfully. 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.

#### Supporting the Parents

The 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 discussion is required, or police or local authority children's social care services need to be involved, the Principal should not speak to the family so until those agencies have been consulted and have agreed what information can be disclosed to the parents. The Principal should appoint a named representative to keep the parents informed about the progress of the case, and 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 may be told the outcome in confidence.

In deciding what information to disclose, careful consideration should be given to the provisions of the Data Protection Act 2018, the law of confidence and, where relevant, the Human Rights Act 1998. In cases where a child may have suffered significant harm, or there may be a criminal prosecution, local authority social care services, or the police as appropriate, should consider what support the child or children involved may need.