



# celtic cross education

Allegations Against Staff Policy

Oct 2021

## 1. Background

- 1.1. Safeguarding allegations against members of staff are obviously a serious matter. The Department of Education issues statutory guidance on the subject in its publication [Keeping Children Safe in Education](#) and schools are obliged to have regard to it. Part IV, entitled *Allegations of abuse made against teachers and other staff*, is particularly relevant.
- 1.2. This policy is in line with that guidance and is designed to ensure that all staff are aware of the correct approach to be taken in such cases. It is not simply a disciplinary matter; other agencies have to become involved and the primary concern is over the safety and welfare of the child.
- 1.3. There is a good deal of guidance in *Keeping Children Safe in Education* about safeguarding generally, and this is reflected in the school's Child Protection and Safeguarding Policy, which covers such matters as the role of the Designated Safeguarding Lead (DSL), signs of abuse, how to respond if a child reveals that they have suffered abuse, at home or elsewhere, and particular risks. This policy only concerns cases where the allegation is against a member of staff (including directors, governors, supply staff, contracted services and volunteers) whenever, in the words of the statutory guidance, they have:
- behaved in a way that has harmed a child, or may have harmed a child;
  - possibly committed a criminal offence against or related to a child; or
  - behaved towards a child or children in a way that indicates he or she would pose a risk of harm to children.

## 2. Procedure

### Reporting an allegation

- 2.1. All concerns of this nature **should be reported immediately to the Head of School**. Complaints about the Head of School should be reported to the School Monitoring Council Chair who will then contact the Local Authority Designated Officer (LADO).
- 2.2. The term "case manager" is used in the statutory guidance to cover both individuals, but in this policy the word Lead Professional is used throughout for convenience.
- 2.3. The term 'staff', throughout the policy, refers to those directly employed by the school, as well as supply/agency, contractors and volunteers.
- 2.4. Staff who are concerned about the behaviour of a colleague towards a pupil are undoubtedly in a difficult situation. They may worry that they have misunderstood the situation or that a report could jeopardise their colleague's career. It is important to remember that the welfare of the child is paramount. The only proper course is to report their concerns immediately.

- 2.5. If in doubt, the matter could be reported to, or raised, with the DSL, but he or she will not be able to give any undertaking to treat the matter in confidence and, providing that the allegation is covered by this policy, will also be under an obligation to report the matter to the Lead Professional.
- 2.6. Acting quickly is also important. It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation.
- 2.7. The Lead Professional will then contact the LADO, and a discussion may then take place to decide whether an immediate intervention by the police or social care services is required. If such a strategy discussion is needed, representatives from other agencies, such as health, social care and the police, may be invited. It may also be that no further action is required.
- 2.8. Following consultation with the LADO, and other agencies, and having agreed what information can be disclosed, the Lead Professional will make this known to the member of staff. He or she may, at that stage, may decide to suspend them.

### **Investigation/Strategy Discussion**

- 2.9. The initial strategy discussion will also consider who is best placed to carry out an investigation. It may be the school, children's social services or, in more serious cases, the police. Internal investigations may need to be delayed until an external investigation is complete.

### **Supporting those involved**

- 2.10. We will do our best to support the staff member through the process. Once the LADO has been consulted, the staff member will be informed of the allegation as fully as possible, including the next steps. A named representative will be appointed, which may be the DSL, to keep him or her informed of the process. Individuals should also contact their trade union representative for support.
- 2.11. Parents and carers should also be told about the allegation as soon as possible, if they do not already know of it. Again, this must follow consultation with the LADO. After that, the Lead Professional should keep them informed of the progress of the case as far as possible without breach of confidentiality or compromising any investigation. This may be a police or social services investigation, or an internal disciplinary process.
- 2.12. This task of keeping parents or carers informed may be delegated to a senior member of staff, and may be the DSL, but the same person will not also act as support to the staff member concerned.
- 2.13. Parents and carers shall also be made aware that there is a statutory obligation under the Education Act 2002 (section 141F) to maintain confidentiality about any allegations made against teachers whilst investigations are ongoing.

### **3. Confidentiality**

- 3.1. We will make every effort to maintain the confidentiality of all parties at every stage, and to avoid publicity. A breach of confidentiality will be taken seriously and may warrant its own investigation.
- 3.2. The Education Act 2002 prohibits the publication of any material which may identify a teacher accused of harming a pupil, which includes any speech and social media.
- 3.3. The Lead Professional will therefore liaise with the LADO and other agencies as to the information that can be released as appropriate.

### **4. Suspensions**

- 4.1. Suspension is a serious step, especially in such circumstances, and will not be done automatically. All options to avoid suspension will be considered and it is only appropriate where there is cause to suspect that a child is at risk of harm. Further guidance is provided in *Keeping Children Safe in Education*.
- 4.2. If suspension cannot be avoided, the employee will receive written confirmation within one working day and will be informed of the reason for the suspension.

### **5. Resignations and Settlement Agreements**

- 5.1. If an employee resigns, or offers to resign, during an investigation, the investigation will continue until an outcome has been reached, with or without the employee's cooperation. They will still be given a full opportunity to respond to the allegation. Settlement agreements, by which a person agrees to resign if the employer agrees not to pursue disciplinary action, should not be used in such circumstances.

### **6. Outcomes**

- 6.1. The following definitions are used for the outcome of safeguarding investigations:
  - Substantiated: there is sufficient evidence to prove the allegation;
  - Malicious: there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive
  - False: there is sufficient evidence to disprove the allegation;
  - Unsubstantiated: there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
- 6.2. The school is not bound by the conclusions of other agencies but, in practice, is likely to form the same view on the evidence available. If there is a prior investigation by the police or another agency, which concludes that an allegation is substantiated, this is a strong indication that an offence of gross misconduct has been committed, and hence that a disciplinary hearing is required. In the case of an unsubstantiated allegation, the school will have to consider carefully whether disciplinary proceedings are appropriate on the evidence available. Volunteers and self-employed staff are not, however, covered by the school's disciplinary policy.

In these circumstances, the LADO and employer should act jointly with the providing agency in deciding whether to continue to use the person's services, or provide future work with children, and, if not, whether to make a report to the barring service is necessary.

- 6.3. If the allegation is upheld, and the member of staff is dismissed or leaves for whatever reason, the school will consider with the LADO whether to make a DBS referral. There is a legal obligation to make a DBS referral when satisfied that an individual has engaged in conduct which has harmed or was likely to harm a child, or if they otherwise pose a risk of harm to a child.
- 6.4. If it is decided that the employee may return to school after a suspension, then we will take steps to make the transition as smooth as possible. This may involve a phased return, a trial period or the use of another member of staff as a support in. If the child who made the allegation is still at the school, we will consider what needs to be done to manage the contact between employee and child.
- 6.5. Where an allegation is proved to be false, the Lead Professional and Chair of the Board may refer to social services to determine whether the child needs support or has been abused by someone else.

## **7. Record Keeping**

- 7.1. In each case, the employee will be notified of the outcome in writing. Where an allegation is found to be false or malicious, it will be removed from their personnel record. Otherwise, a copy will be kept (even after they leave the school) until they reach normal retirement age or for 10 years from the date of the allegation, whichever is longer.
- 7.2. Details of any allegation made by a pupil will be kept in the confidential section of their online file in CPOMs or My Concern.
- 7.3. In responding to any request for a reference, only substantiated allegations will be mentioned.

## **8. After the case**

- 8.1. Regardless of the outcome, we will review the case to see if there what improvements can be made to our practice or policy for the future.

## **9. Allegations against staff in their personal lives**

If an allegation or concern arises about a member of staff outside of his/her work, and this may present a risk to children for whom the member of staff is responsible, the general principles outlined in these procedures still apply and contact with LADO may be necessary.

The strategy discussion should consider whether the concern identified justifies:

- Discussion with the staff's employer for further information, in order to assess the level of risk; and/or inviting the employer to a further strategy discussion about dealing with the possible risks. If the member of staff lives in a different authority to that which covers his/her workplace, liaison should take place between the relevant agencies in both areas and a joint strategy discussion convened. In some cases, an allegation of abuse against someone

closely associated with a member of staff e.g. partner, member of the family, or other household member, may present a risk to children for whom the member of staff is responsible. In these circumstances, a strategy discussion should be convened to consider:

- The ability and willingness of the member of staff to adequately protect the children
- Whether measures need to be put in place to ensure their protection
- Whether the role of the member of staff is compromised

### 9.1 Disciplinary and Suitability Processes

The LADO and the Head of School should discuss whether an internal disciplinary investigation is appropriate in cases where:

- It is clear at the outset, or when decided by a strategy discussion, that a Police investigation or Social Care enquiry is not necessary, or
- The employer or the LADO is informed by Police or the Crown Prosecution Service (CPS) that a criminal investigation and any subsequent trial is complete, or that an investigation is to be closed without charge, or a prosecution discontinued.
- Where the Police and CPS formally agree to a disciplinary investigation running concurrently with their own investigations.

The discussion should consider any potential misconduct and/or suitability issues on the part of the member of staff and take into account:

- Information provided by the Police and/or Social Care
- The result of any investigation or trial
- The different standard of proof in disciplinary and criminal proceedings

If formal disciplinary action is not required, the employer should institute appropriate action (shall we stipulate a timescale... within 3 days, for example). If a disciplinary hearing is required, and further investigation is not required, the hearing should be held within 14 working days. If further investigation is needed to decide upon disciplinary action, the employer and the LADO should discuss whether the employer has appropriate resources, or whether the employer should commission an independent investigation because of the nature and/complexity of the case and in order to ensure objectivity.

The aim of an investigation is to obtain, as far as possible, a fair, balanced and accurate record in order to consider the appropriateness of disciplinary action and/or the individual's suitability to work with children. Its purpose is not to prove or disprove the allegation.

The investigating officer should aim to provide a report (shall I stipulate a timescale?). On receipt of the report, the employer should decide whether a disciplinary hearing is needed. If a hearing is required, it should be held within 14? working days. If at any stage new information emerges that requires a child protection referral, the disciplinary investigations should be held in abeyance and only resumed if agreed with Social Care and the Police. Consideration should, again, be given as to whether suspension is appropriate in light of the new information.

## Appendix One: Cornwall LADO Referral Form



Together   
for Families

Information Classification: PUBLIC

### Local Authority Designated Officer (LADO)

## Local Authority Designated Officer (LADO)

### Cornwall and the Isles of Scilly

#### Professional Allegation Referral Form Guidance

1. The LADO's primary function is to manage and have oversight of any investigation into an incident where an allegation of abuse or harm has been made against a professional or volunteer who has contact with children as part of their work or activities.
2. It is your responsibility to contact the LADO within one working day of an incident arising and prior to any further investigation taking place where it appears that an allegation or concerns about a person who works with children, has:
  - 2.1 Behaved in a way that has harmed a child or may have harmed a child
  - 2.2 Possibly committed a criminal offence against or related to a child
  - 2.3 Behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children
  - 2.4 Behaved or may have behaved in a way that indicates they may not be suitable to work with children (school and colleges only)
3. The LADO will give initial guidance prior to a LADO referral being made. Please contact the LADO service within 1 working day of the incident or when you were made aware of concerns on 01872 326536.
4. If you have any child protection concerns directly relating to the alleged child victim/s, please contact the Multi Agency Referral Unit on 0300 123 1116 to make a referral to social care. If you have any concerns in relation to a vulnerable adult please contact the Safeguarding Adults Access Team on 0300 1234 131.
5. All LADO referrals require the LADO Professional Allegation Referral Form to be completed and sent securely to the email address [multiagencyreferralunit@cornwall.gov.uk](mailto:multiagencyreferralunit@cornwall.gov.uk). It is important that the LADO

referral form is completed as fully as possible to ensure the LADO is able to effectively manage and have oversight of any investigation.

6. Information on the LADO referral form will be shared with other agencies as part of the LADO process, unless this puts an individual at risk of harm or inhibits an investigation.
7. This referral form and LADO information leaflets about the LADO role and process for employers and employees can be found at the following web link:  
[www.cornwall.gov.uk/lado](http://www.cornwall.gov.uk/lado)

## Local Authority Designated Officer (LADO)

### Cornwall and the Isles of Scilly

#### Professional Allegation Referral Form

Alleged Perpetrator's Details		
Name		
Date of Birth	Click here to enter a date.	Click here to enter a date.
Address		
Job Title		
Name of Organisation		
Length of time involved with the organisation		
Relationship to alleged victim		

Referrer's Details	
Name and Address of Referrer	
Designation/Organisation	
Telephone Number	
Email Address	
Date of Referral	Click here to enter a date.

Alleged Victim's Details	
Name	
Date of Birth	Click here to enter a date.

Alleged Victim's Details	
Address	
Ethnicity	
Social Worker (if applicable)	
Does the alleged victim have a disability?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes details:
Does the alleged victim have special educational needs?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes details:
Do you have any reason to doubt the alleged victim's capacity to participate?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes details:
Is the alleged victim at risk of Child Sexual Exploitation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Alleged victim's relationship to alleged perpetrator	

Other Vulnerable Adults or Children who may be at Risk (If Applicable)			
Name			
Date of Birth	Click here to enter a date.	Click here to enter a date.	Click here to enter a date.
Address			
Ethnicity			
Social Worker (if applicable)			
Does the alleged victim have a disability?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes details:	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes details:	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes details:
Does the alleged victim have special educational needs?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes details:	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes details:	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes details:
Do you have any reason to doubt the alleged	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes details:	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes details:	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes details:

<b>victim's capacity to participate?</b>			
<b>Is the alleged victim at risk of Child Sexual Exploitation?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Alleged victim's relationship to alleged perpetrator</b>			
<b>Incident/Allegation/Concern Details</b>			
<b>If the alleged victim has a disability or special educational needs, did the allegation arise from physical intervention or restraint?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No		
<b>Date of incident (if applicable)</b>	<a href="#">Click here to enter a date.</a>		
<b>Time of incident (if applicable)</b>			
<b>Location of incident (if applicable)</b>			
<b>Details of Incident/Allegation/Concern</b>			
<b>What are the views and desired outcome of the alleged victim/person with parental responsibility</b>			

<b>Other Workers/Organisations Involved</b>			
<b>Name</b>	<b>Organisation</b>	<b>Email Address</b>	<b>Telephone Number</b>

### **Data Protection - Privacy Statement**

The information you provide is being collected by Together for Families' Multi Agency Referral Unit (MARU) for the purpose of helping us to make the right decisions about the type of service you need ensuring you receive services best suited to your needs and circumstances.

This information may also be shared with other relevant professionals in conjunction with the nature of the request or enquiry. The data held relating to the delivery of support by MARU to your child will be used both for the provision of services and also for performance and service planning. This information will be held in a secure environment for a minimum of three years from date of case closure for all contacts and a maximum of 25 years from date of birth for all referrals in accordance with the TFF data retention policy after which time it will be destroyed in a secure manner. A full copy of our Privacy Notice can be found at [www.cornwall.gov.uk/tffprivacynotice](http://www.cornwall.gov.uk/tffprivacynotice)