



# Marylebone Boys' School

STUDIO ET INDUSTRIA

<b>Policy Name</b>	<b>Managing Allegations of Physical and Sexual Abuse Against Staff</b>
Author	Richard Ardron
Last reviewed	June 2021
Next review date	Every 2 years
Required to publish on school website	Yes
Statutory	Yes

## Contents

1. Introduction
2. Physical Restraint of Pupils
3. Staff Who Hear an Allegation
4. Urgent Initial Assessment of an Allegation
5. Dealing with Demonstrably False Allegations
6. Allegations Requiring Police or Social Services Involvement
7. Allegations Requiring No Police or Social Services Involvement
8. Suspension
9. Anonymity and Confidentiality
10. Disciplinary Investigation Interview
11. Resignation Pending Outcome of Disciplinary Investigation
12. After Disciplinary Investigation
13. Return to Work
14. Disclosure and Barring Service/NCTL
15. Record-keeping
16. Monitoring and Evaluation
17. Definitions

### **1. Introduction**

- 1.1 This document outlines the steps to be taken when an allegation of physical or sexual abuse is made against a member of staff in relation to a pupil at the school in which the accused is employed. It applies to temporary as well as to permanent members of staff and supply staff.
- 1.2 The school's/college's disciplinary procedures will be informed by this policy, which is intended to be complementary and supplementary to the Department for Education guidance contained in '*Working Together to Safeguard Children*'; '*Dealing with Allegations of*

*Abuse against Teachers and other School Staff*, and to local Area Child Protection Committee (ACPC) procedures. This policy is designed to be consistent with principles of natural justice.

- 1.3 This policy does not cover allegations of racist or religious misconduct. This would be considered under the School Complaints Policy.
- 1.4 This governing body will ensure an effective means of disseminating information about child protection procedures to the Headteacher and to the designated teacher in the school.
- 1.5 Headteachers and designated teachers and chairs of governors are advised to be familiar with the provisions of *'Working Together to Safeguard Children'*, ACPC child protection procedures and local authority procedures.

## **2. Physical Restraint of Pupils**

- 2.1 A significant proportion of allegations against teachers and school support staff relate to incidents involving the physical restraint of pupils. In this school:
  - Staff will be trained in the use of physical restraint;
  - all staff will be trained in the use of positive behaviour supports and techniques to defuse crisis and conflict situations;
  - training will be recurrent, with annual updates at a minimum, and will be appropriate to the type of school setting and to the age and developmental level of pupils;
  - training will include information about the effects of medications pupils may be receiving and how restraint procedures might affect the physical wellbeing of the pupil during restraint procedures;
  - training will include multiple methods for monitoring a pupil's well-being during a restraint;
- 2.2 Where the allegation relates to the use of reasonable force to restrain a pupil, it will be appropriate for the Headteacher to deal with the matter at school. An allegation of assault beyond the use of reasonable force would, however, need to be dealt with in accordance with the local child protection procedures.

## **3. Staff Who Hear an Allegation**

- 3.1 The member of staff receiving an allegation of abuse against another member of staff should report this immediately to the Headteacher, unless the Headteacher is the person against

whom the allegation is made. An allegation against a head should be reported to the Designated Safeguarding Lead (DSL) or Chair of Governors.

- 3.2 The Designated Safeguarding Lead (DSL), or person to whom the allegation is initially reported, must not promise confidentiality to a person who makes an allegation. In responding to a person who makes disclosures, account should be taken of the age and understanding of the person concerned and whether they (if they are a child) or other children may be at risk of significant harm. While acknowledging the need to create an environment conducive to speaking freely, the member of staff should make it clear to a person who approaches them asking for confidentiality that they will need to pass on what has been said so as to ensure the protection of the child(ren). Within that context, the person should be assured that the matter will be disclosed only to people who need to know about it.

#### 4. Urgent Initial Assessment of an Allegation

- 4.1 Where an allegation of abuse is made against a member of staff, the designated teacher should carry out an initial assessment of the facts. An initial assessment should be carried out **on the same day** the allegation is made or, if that is not possible, **the next working day after the allegation** is made. In the case of alleged physical abuse, an initial assessment of the facts might involve a cursory examination of the injury alleged and/or referral to a qualified health professional. The pupil should be listened to and a verbatim report of their statement produced. The school/college incident book should be interrogated to see whether an entry was made which would shed light on the allegation. If another member of staff was present in the classroom at the relevant time, their views should be sought as soon as possible.
- 4.2 Pupils making allegations should initially be listened to, rather than questioned or interrogated. The following points give guidance on how to deal with a pupil who makes an allegation.
- The pupil should be listened to but not interviewed or asked to repeat the account. Avoid questions, particularly leading questions.
  - The pupil should not be interrupted when recalling significant events.
  - All information should be noted carefully, including details such as timing, setting, who was present and what was said, in the pupil's/student's own words. The account should be obtained verbatim or as near as possible.
  - Care should be taken not to make assumptions about what the pupil is saying or to make interpretations.
  - 'Listened to' means just that; on no account should suggestions be made to pupils as to alternative explanations for their worries.

- The written record of the allegations should be signed and dated by the person who received them as soon as practicable.
  - All actions subsequently taken should be recorded.
- 4.3 The designated teacher should discuss the case with the Local Authority Designated Officer (the LADO) as soon as an initial assessment is made. The purpose of the discussion is for the LADO and the designated teacher to consider the nature, content and context of the allegation and agree a course of action. The LADO may ask the designated teacher to provide or obtain relevant additional information, such as previous history and whether the child or their family have made similar allegations in the past.
- 4.4 The accused will not be asked for their version of events at this stage since approaching him/her too early could hinder any subsequent child protection enquiries and/or criminal investigations.

## **5. Dealing with Demonstrably False Allegations**

- 5.1 If the designated teacher and LADO agree that there is clear evidence to disprove the allegation, the following action will be taken.
- The decision to take no further action and a justification for it will be recorded by both the designated teacher and the LADO and agreement will be reached on what information should be put in writing to the accused and by whom.
  - The designated teacher will then consider with the LADO what action should follow in relation to the child who made the allegation (e.g., referral to an educational psychologist).
  - The accused will be given details of the allegation against them and a summary of the designated teacher and LADO's findings both verbally and in writing. The accused person's union representative or colleague will be allowed to accompany them, if requested.
  - The accused member of staff will be offered counselling.
  - The child's parents/carers will be notified of the allegation and of any steps the designated teacher and LADO have decided to take in relation to the child. At the same time, the parents/carers will be made aware of the prohibition on reporting or publishing allegations about the accused (refer to 'Anonymity and Confidentiality').

## **6. Allegations Requiring Police or Social Services Involvement**

- 6.1 If, after discussion and further enquiries (where appropriate) the designated teacher and LADO believe the matter requires investigation, it will be decided at this stage whether the matter warrants a criminal investigation – in which case the police and social services (and supply agency, where appropriate) will be invited to a strategy meeting to discuss how the

matter may be progressed. An allegation may be referred to the police for investigation where the accused is deemed to be an immediate risk to children and/or there is evidence of a criminal offence (e.g., assault). Even if the matter is not referred to the police at this stage, a referral may be made at any time if new evidence comes to light.

- 6.2 The strategy discussion will consider whether any other children are likely to have been at risk in the light of the allegation and whether it may be necessary to review any previous allegations made against the accused or to consider whether the police or social services should interview any other children, including ex-pupils of the school or the heads of any other schools in which the accused member of staff has worked.
- 6.3 A strategy discussion will take place as soon as possible and, in any event, **within two weeks** of the allegation coming to light.
- 6.4 In some cases, the police may wish to interview the accused before any approach is made by the school. The police may act independently, particularly where the alleged offence does not arise from the individual's professional duties in the school. Police officers will be given every assistance with their enquiries, but confidentiality about the enquiries will be maintained in the individual's interests.
- 6.5 Any investigation by the police and/or child protection agencies will take priority over an internal disciplinary investigation by the school. An internal investigation related to the same or similar allegations running alongside a criminal investigation or child protection enquiry is not likely to be good practice and will be held in abeyance pending the completion of the external enquiries and investigation. In any event, the decision as to whether to initiate an internal investigation will be more fully informed by the outcome of the criminal and/or child protection enquiries. An exception may be made where the accused resigns or ceases to provide their services, pending investigation by the police and/or social services.
- 6.6 Statements made in the course of a police or social services investigation will not be passed to the school without the consent of the signatory to the statement.
- 6.7 When the police are involved, it would not normally be expected that police interviews would be undertaken on school premises and it would be expected that appointments would be made for such interviews to occur at reasonable times at the police station or, in exceptional circumstances, at the member of staff's home.

## **7. Allegations Requiring No Police or Social Services Involvement**

- 7.1 If the designated teacher and LADO decide that the matter should be investigated or considered at school level, or the outcome of the strategy meeting is that an investigation by the police and/or social services is not warranted in the circumstances, there may be one of three possible outcomes at this stage:
  - (i) it may be decided that the allegation represents inappropriate behaviour or poor practice on the part of the accused, but does not require formal disciplinary action, in which case, the Headteacher will institute appropriate action or advise the

employer/agency of the accused to institute appropriate action (e.g., organise some training for the accused) **within three working days** of their decision;

- (ii) it may be decided that a disciplinary hearing is required and can be held without further investigation, in which case, the hearing will be held **within the next 15 working days** and in accordance with the school's/college's disciplinary procedures;
- (iii) it may be decided that further investigation is required to inform consideration of disciplinary action, in which case, the Headteacher, designated teacher (if different) and a personnel adviser will discuss who will undertake that with the LADO. In certain circumstances, it may be appropriate for the disciplinary investigation to be conducted by a person who is independent of the school or college. In any case, the investigating officer will aim to provide a report to the employer **within 10 working days** following referral.

Upon receipt of the report of the disciplinary investigation, the Headteacher and chair of governors (and agency, where appropriate) will, **within two working days**, consult the LADO and decide whether a disciplinary hearing is needed (assuming the report is unclear about next steps). If a hearing is needed, it will be held **within the next 15 working days**.

In the case of an agency supply teacher, the disciplinary hearing will be conducted in the presence of the agency's human resources manager and any sanction issued subsequently will be issued by the agency as the supply teacher's employer. Where the supply teacher is not employed by the school, a meeting will be held (with or without the supply teacher's co-operation) to hear the evidence gathered and determine the outcome of the investigation.

## **8. Suspension**

- 8.1 A decision will be made whether to suspend the accused member of staff pending investigation and/or disciplinary action. The Department for Education's (DfE) statutory guidance, *'Dealing with Allegations of Abuse against Teachers and other Staff'*, recommends that all options to avoid suspension should be considered prior to taking that step and that case managers, "should be as inventive as possible to avoid suspension".

The guidance provides the following alternatives to suspension.

- 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, making it clear that this is not a punishment and parents have been consulted.

- Temporarily redeploying the member of staff to another role in a different location.
- 8.2 The views of the accused will be sought in relation to the alternatives to suspension and they will be entitled to union representation if there is a meeting to discuss the options available.
- 8.3 If immediate suspension is considered necessary, the rationale and justification for such action will be agreed and recorded by both the designated teacher and the LADO. This will also include the alternatives to suspension which were considered and why they were rejected.
- 8.4 Once suspension has been discussed, the accused will be informed verbally and in writing of the allegation against him/her. The accused will be allowed to have a union representative present when told. The accused will receive a letter **within one working day** of the decision of the school regarding suspension. As much information as possible about the nature and content of the allegation will be provided, unless the designated teacher and LADO decide that a strategy discussion with the police and/or children's social care services is needed before all the information can be disclosed.
- 8.5 A suspension letter will include the following advice and assurances, where appropriate.
- The reason why suspension was considered appropriate.
  - Assurance that suspension is a neutral act, not a disciplinary sanction.
  - Assurance that they will continue to receive normal pay.
  - Assurance that they will be kept informed of the progress of the investigation.
  - A prompt to contact their trade union representative.
  - A warning that the investigation may lead to disciplinary procedures.
  - Assurance that confidentiality will be maintained.
  - Confirmation that they or their representative may contact potential witnesses.
  - Confirmation that they may continue to have normal social interaction outside school organised events with colleagues and pupils who are relatives or family friends.
  - Details of their named contact and where/how they may be reached.
  - Details of any confidential counselling service provided by the employer.
  - Details of their liaison link with the school so that they can be informed of general school matters or any issues of importance.



8.6 The designated teacher should have formed a view of the seriousness and complexity of the allegation as a result of her/his initial assessment and after discussion with the LADO. The suspension letter should, therefore, provide an estimate of the time it is likely to take to conclude the school's/college's investigation, although the timescale may be subject to change. It is expected that 80 per cent of investigations will be resolved in one month, 90 per cent within three months and all but the most exceptional cases (e.g., cases referred to the police) within 12 months.

## **9. Anonymity and Confidentiality**

9.1 Every effort will be made to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2011 introduced reporting restrictions preventing the publication of any material that may lead to the identification of a teacher who has been accused by, or on behalf of, a pupil from the same school. The reporting restrictions apply until the point that the accused member of staff is charged with an offence, or until the Secretary of State publishes information about an investigation or decision in a disciplinary case arising from the allegation. The reporting restrictions also cease to apply if the accused member of staff waives their right to anonymity by going public or by giving their written consent for another to do so or if a judge lifts restrictions in response to a request by a third party to do so.

9.2 '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, publishes 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 accused staff member's identification by members of the public.

9.3 The school will take advice from the LADO, police and social services 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.
- How to manage press interest and how it should arise.

9.4 The Headteacher will be required to prepare a standard response to queries from parents and the media. The response should indicate that:

- the matter is governed by procedures which the Headteacher is obliged to follow;
- the matter is in the hands of appropriate agencies and no further comment can be made; and
- no names can be given for public use.

## **10. Disciplinary Investigation and Interview**

- 10.1 The point at which the accused member of staff is interviewed as part of the school's internal disciplinary process will depend on the involvement, or otherwise, of other agencies such as the police and/or social services. If a referral is made to the police before the school has had a chance to investigate the matter, for example, the school's internal investigation will normally be held in abeyance immediately following such a referral. The school's investigation will resume only once the police and/or social services indicate that such resumption will not interfere with any child protection enquiries or criminal investigations.
- 10.2 Before the accused member of staff is interviewed at school level, they will be informed of:
- their rights under the school's disciplinary procedure, including their right to representation;
  - the allegation in full;
  - their right to respond and make a statement;
  - their right to access information and documentation which will help them address the allegations against them, including statements made by pupils, parents and colleagues, notes made in the course of the investigation and minutes of meetings (including strategy discussions) relating to the matter.
- 10.3 Full notes will be taken of the interview and the accused member of staff will be invited to read and sign them as a true record after the interview. The accused will also be invited to identify anyone who may have information relevant to the investigation, so that they may be interviewed too.
- 10.4 The employer, governing body, if different, and the LADO will balance the welfare of the accused member of staff and the interests of the investigation, taking account of the need to minimise the stress to anyone who may be wrongly accused.

## **11. Resignation Pending Outcome of Disciplinary Investigation**

- 11.1 Where the accused member of staff resigns or voluntarily ceases to provide their services, pending the outcome of an external or internal investigation, the school/college:
- will record the allegation and any supporting evidence and reach a judgment about whether the allegation can be substantiated on the basis of the information available to date. If too little information has been recorded to reach any conclusions, further enquiries will be made to support the school's findings;
  - as part of that process, will ask the accused to take part in a meeting and/or make written representations, although the accused will not be obliged to do so if they have served their notice period;

- if the allegation against the accused member of staff is 'substantiated', the employer may refer to the allegation in future work references;
- may refer the accused to the Disclosure and Barring Service and/or the National College of Teaching and Leadership, which has responsibility for regulating the teaching profession and for holding a list of teachers prohibited from teaching because of serious misconduct.

11.2 Compromise agreements, by which a person agrees to resign if the employer agrees not to pursue disciplinary action, **must not** be used in these cases. In any event, such an agreement will not prevent a thorough police investigation where that is appropriate. Nor can it override the statutory duty to make a referral to the Disclosure and Barring Service where the circumstances warrant such a referral.

## 12. After Disciplinary Investigation

12.1 At the end of the investigation, a meeting will be arranged to inform the accused member of staff of the next steps. They will be accompanied by their union representative or colleague, if they wish. If the outcome is a disciplinary charge, further action must be in accordance with the employer's disciplinary procedures. If there is to be a formal disciplinary hearing, it will take place **within 15 working days** or, if the matter has been referred to the police and/or social services, after their child protection enquiries are concluded.

## 13. Return to Work

13.1 If the accused is suspended pending investigation and/or disciplinary hearing and the decision on conclusion of the case is that they should return to work, the designated teacher will consider how best to facilitate that. Most people will benefit from some help and support to return to work after a stressful experience like this. Depending on the circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The designated teacher will also consider how the accused member of staff's contact with the pupil who made the allegation can best be managed if the pupil is still a pupil at the school.

## 14. Disclosure and Barring Service/National College of Teaching and Leadership

14.1 If the allegation is substantiated following a disciplinary hearing and the accused member of staff is dismissed or their employer ceases to use their services, or they resigns or otherwise ceases to provide their services, the employer or agency will consider whether to refer the case to the Disclosure and Barring Service and the National College of Teaching and Learning (the NCTL).

14.2 There is a legal requirement for employers/agencies to make a referral to the Disclosure and Barring Service (DBS) where they believe that 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.

In such circumstances, the employer/agency must refer the individual to the DBS if it dismissed or would have ceased to use the individual's services, or would have done so but for their resignation.

- 14.3 The DBS will consider whether to bar the person from working in regulated activity, which will include most work in schools and other educational establishments. Local authorities, schools (including academies and other independent schools), FE colleges and other bodies all have a statutory duty to make reports and to provide relevant information to the DBS. Therefore, referrals will be made as soon as possible after the resignation or removal of the member of staff involved and **within one month** of ceasing to use the person's services.

## **15. Record-keeping**

- 15.1 Details of allegations that are found to have been malicious will be removed from personnel records. However, for all other allegations, it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on a person's confidential personnel file and a copy provided to the person concerned. The designated teacher is required to manage the keeping of records in relation to the allegation. Where a person makes an oral statement, a written record will be produced and, as with other written statements, it will be signed and dated by the author.
- 15.2 A record of the allegation will be retained at least until the person has reached normal retirement age or for a period of ten years from the date of the allegation if that is longer.

## **16. Monitoring and Evaluation**

- 16.1 The governing body will monitor the operation and effectiveness of this policy.
- 16.2 The Headteacher will provide the governing body with a written report on the operation of the school's/college's allegations of abuse policy annually. The report will not identify any individual by name. The report will include an assessment of the impact of these policies on:
- age
  - disability
  - race
  - sex
  - sexual orientation
  - supply/temporary status
- 16.3 The Headteacher will report on whether there have been any appeals or representations on an individual or collective basis on the grounds of alleged discrimination.

## **DEFINITIONS**

### **Designated Teacher**

Each Headteacher must designate a member of staff to act as the child protection officer or designated teacher for their school. Such an individual should be a senior member of the teaching staff with specific responsibility for co-ordinating action within the school and liaising with social services departments and other agencies over suspected child abuse. It may be appropriate for another senior teacher to be named as the alternative to the Headteacher if they are the designated teacher. At Marylebone Boys' School, the designated teacher is the DSL.

### **Local Authority Designated Officer (LADO)**

A LADO is a designated local authority officer involved in the management and oversight of individual cases of allegations of abuse made against those who work with children. Their role is to give advice and guidance to employers and voluntary organisations; liaise with the police and other agencies, and monitor the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process.