



Cotham School, Cotham Lawn Road,  
Bristol, BS6 6DT  
Headteacher: Ms Jo Butler  
t: 0117 919 8000  
e: [info@cotham.bristol.sch.uk](mailto:info@cotham.bristol.sch.uk)  
[www.cotham.bristol.sch.uk](http://www.cotham.bristol.sch.uk)

## **Allegations Against Staff**

### **Introduction**

All students and staff have a fundamental right to be protected from harm.

The Governors of Cotham School have a duty to safeguard and promote the welfare of children and create and maintain a safe learning environment. Cotham School should identify where there are safeguarding concerns and take action to address them, in partnership with other organisations where appropriate and in accordance with local inter-agency procedures.

Cotham staff have a positive role to play in Safeguarding and Child Protection as their position often allows them to be able to observe outward signs of abuse and changes of behaviour in students.

Because of their role, however, they are also open to accusations of abuse. Such allegations may be true, but they may also be false, misplaced or malicious.

To fulfil its commitment to the safeguarding of children, Cotham has a procedure for dealing with allegations of abuse against members of staff and volunteers.

The procedure aims to ensure that all allegations are dealt with fairly, consistently and quickly and in a way that provides protection for the student, whilst supporting the person who is the subject of the allegation.

In the event that a member of staff does not wish to report an allegation directly, or they have a general concern about malpractice at Cotham, reference can also be made to Cotham's Whistle blowing policy.

The procedure complies with the framework for managing cases of allegations of abuse against people who work with children, as set out in relevant guidance and in the local inter-agency procedures.

### **Scope**

The procedure applies to all adults who are currently working at Cotham, including volunteers, regardless of whether the school is where the alleged abuse took place. Allegations against a staff member or volunteer who is no longer teaching should be referred to the police.

### **General Principles**

The following procedures should be used in respect of all cases in which it is alleged that a member of staff or a volunteer in the school 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, or
- Behaved in an inappropriate way towards a child which may indicate that he or she is unsuitable to work with children.

The procedures may also be used:

- If a concern arises about a member of staff in his/her private life which indicates that they may be unsuitable to work with children.
- If there has been a recommendation from a strategy discussion that consideration should be given to the risk posed to children they work with, or



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- When an allegation is made about abuse that took place some time ago and the accused person may still be working with or have contact with children.

It is imperative that everyone who deals with allegations of abuse maintains an open and enquiring mind. Even allegations that appear less serious must be followed up and taken seriously. The procedure aims to provide effective protection for the child and support for the person who is the subject of the allegation.

### **Procedure – All staff.**

#### **What should I do if I am concerned about the behaviour of a member of staff towards a child?**

If there is a concern that a person may have behaved inappropriately or the school receives information that may constitute an allegation, the following action should be taken:

- All allegations should be reported to the Headteacher immediately unless the allegation is about the Headteacher in which case it should be reported to the Chair of Governors or the Deputy Chair in the Chair's absence. In the event that the Headteacher is unavailable, Ms Domini Leong or Mr Chris Reed (Deputy Headteachers) should be approached.
- Make a signed and dated written record of the concerns or observations and pass the information received to the Headteacher;
- Maintain confidentiality for all concerned and guard against publicity. Follow information-sharing protocols explained later in this document.

#### **You should not**

- Attempt to deal with the situation yourself;
- Make assumptions, offer alternative explanations or diminish the seriousness of the behaviour or alleged incidents;
- Keep the information to yourself or promise confidentiality;
- Take any action that might undermine any future investigation or disciplinary procedure, such as interviewing the alleged victim or potential witnesses, or informing the alleged perpetrator or parents or carers.

N.B If a child has clearly been injured and/or there is clear evidence of significant harm or risk of significant harm, immediate referral to the police or social care or emergency services must be considered in accordance with child protection procedures. Your Designated Child Protection Officer should be informed as soon as possible afterwards. Remember that the safety and welfare of the child is your overriding concern.



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## Initial Considerations by Headteacher

The procedure for dealing with allegations need to be applied with common sense and judgment. Many cases may either not meet the criteria set out or may do so without warranting consideration or either a police investigation or enquiries by the Local Authority Designated Officer (LADO). In these cases, local arrangements should be followed to resolve cases without delay. In most cases the Headteacher should contact the LADO if there is an allegation within one working day. **The Local Authority Designated Officer is Nicola Laird on 0117 903 7795 email [Nicola.laird@bristol.gov.uk](mailto:Nicola.laird@bristol.gov.uk)**

It is important that you do this before speaking to anyone else about the matter, including the child, as any further action/investigation by the school may impede any subsequent police investigation and could limit the outcomes available.

Some rare allegations will be so serious they require immediate intervention by social care and / or the police. The LADO should be informed of almost every allegation that comes to the school's attention and appear to meet the criteria so they can consult the police and social care services as appropriate.

The following definitions should be used when determining the outcome of allegation 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.

The purpose of an initial discussion is for the LADO and the Headteacher / governor to consider the nature, content and context of the allegation and agree a course of action. The LADO may ask for additional relevant information.

There may be situations when the Headteacher will want to involve the police immediately. Where there is no such evidence, the Headteacher will discuss the allegations with the LADO in order to help determine whether police involvement is necessary.

The initial sharing of information and evaluation may lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern; in which case this decision and a justification for it should be recorded by both the Headteacher and the LADO and an agreement reached on what information should be put in writing to the individual concerned and by whom. The Headteacher should then consider with the LADO what action should follow both in respect of the individual and those who made the initial allegation.

The Headteacher should inform the accused person about the allegation as soon as possible after consulting the LADO. It is extremely important that the Headteacher provides them with as much information as possible at this time. However, where a strategy discussion is needed, or police or social care need to be involved, the Headteacher should not do that until those agencies have been consulted, and have agreed what information can be disclosed to the accused.

The school must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the school or whether alternative arrangements can be put in place until the



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allegation or concern is resolved. All options to avoid suspension should be considered prior to taking that step (see later section on Suspension).

If there is cause to suspect a student is suffering or is likely to suffer significant harm, a strategy discussion should be convened in accordance with Working Together to Safeguard Children. If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take into account that teachers and other school staff are entitled to use reasonable force to control or restrain students in certain circumstances, including dealing with disruptive behaviour.

Where it is clear that an investigation by the police or social care is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the LADO should discuss the next steps with the Headteacher. In those circumstances, the options open to the school depend on the nature and circumstances of the allegation 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. Where further enquiries will be needed and the complexity of the allegation warrants it, an independent investigator may be used.

## Timescales

It is in everyone's interest to resolve cases as quickly as possible, consistent with a fair and thorough investigation and avoid unnecessary delay. Indicative timescales for each stage of the process are shown below: the time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation, but these targets should be achievable in all but truly exceptional cases. It is expected that 80% of cases should be resolved within one month, 90% within three months and all but the most exceptional cases should be completed within 12 months.

For those cases where it is clear immediately that the allegation is unsubstantiated or malicious, the aim should be to resolve **within one week**. Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the school to deal with it, although if there are concerns about child protection, the school should discuss them with the LADO. In such cases, if the nature of the allegation does not require formal disciplinary action, the school should aim to institute appropriate action within **three working days**. If a disciplinary hearing is required and can be held without investigation, the hearing should be held within **15 working days**.

Where further investigation is required to inform the initial consideration of disciplinary action, the Headteacher should discuss who will undertake that with the LADO. The investigating officer should aim to provide a report to the Headteacher **within 10 working days**.

On receipt of the report of the disciplinary investigation, the school should decide whether a disciplinary hearing is needed **within two working days** and if the hearing is needed it should be held **within 15 working days**.

## Supporting those involved

Parents or carers of a child or children involved should be told about the allegation as soon as possible having sought advice and agreement from relevant external agencies especially when part of a strategy discussion. They should also be kept informed about the progress of the case including suspension and told the outcome where there is not a criminal prosecution. This also includes the outcome of any disciplinary process.



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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.

Parents and carers should also be made aware of the prohibition on reporting or publishing allegations about teachers. If parents wish to apply to the court to have reporting restrictions removed, they should be told to take some legal advice.

In cases where a student may have suffered significant harm, or there may be a criminal prosecution, social care or the police as appropriate, should also consider what support the child, children and their parents may need.

Cotham has a duty of care to their employees. They should act to manage and minimize the stress inherent in the allegations and disciplinary process. Support for the individual is key to fulfilling this duty. The Headteacher should appoint a named representative to keep the person who is subject to the allegation informed of the progress of the case and consider what other support is appropriate. This support may include occupational health or employee welfare arrangements. Particular care needs to be taken when employees are suspended. They 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 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. They should also be given access to counselling or medical advice where this is provided by the employer. 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.

Depending on the circumstances of the alleged abuse, support for others at the school, both staff and students might also need to be considered.

If the allegations are unfounded and no action is to be taken against the member of staff, the Headteacher / chair of governors should still consider whether counselling and / or informal professional advice might be appropriate for all parties, to help rebuild confidence where necessary. Phased return on full pay for the member of staff could be considered and / or the provision of the mentor. A meeting with the employee and their union representative to discuss such matters would also be helpful.

## Confidentiality

Whilst an allegation is being investigated, every effort should be made to maintain confidentiality and guard against any 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 (where that identification would identify the teacher as the subject of the allegation).

The Headteacher should take advice from the LADO and other external agencies 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.



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## Managing the situation and exit arrangements

### Resignations / Compromise Agreements

The fact that a person tenders their resignation must not prevent an allegation being followed up in accordance with these guidelines. **A referral to the DBS *must* be made, if the criteria are met i.e. anyone who has harmed, poses a risk or harm, to a child or if there is reason to believe the member of staff has committed one of a number of listed offences, and who has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left.** If the accused person resigns or their services cease to be used and the criteria are met it will not be appropriate to reach a settlement / compromise agreement.

A settlement / compromise agreement which prevents the school from making a DBS referral when the criteria are met would likely result in a criminal offence being committed as the school would not be complying with its legal duty to make the referral

It is important that every effort is made to reach a conclusion in all cases, including any in which the individual concerned refuses to cooperate with the process. Wherever possible, it is important to reach and record a conclusion wherever possible. The accused should be given a full opportunity to answer the allegations and make representation about it.

Compromise agreements by which a person agrees to resign if the school 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 co-operate or resignation before the person's notice period expires. Such an agreement will not prevent a thorough police investigation where that is appropriate.

### Record keeping

Details of allegations that are found to have been malicious should be removed from personnel records. For all other allegations, it is important that a clear and comprehensive summary recording the outcome of any allegations is kept on a person's file and a copy provided to the individual.

The purpose of the record is to enable accurate information to be given in response to a reference and will help provide clarity where a future DBS disclosure reveals police information that an allegation was made but did not result in a prosecution or conviction. Such a record also serves to protect the employee from unnecessary reinvestigation if allegations resurface after a period of time. The record should be retained at least until the accused has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

### References

Cases in which an allegation was proven to be false, unsubstantiated or malicious should not be included in employer references. A history of repeated concerns or allegations which have all been found to be unsubstantiated, malicious etc... should also not be included in any reference.



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## Oversight and monitoring

The LADO has overall responsibility for the oversight of the procedure for dealing with allegations, and will provide advice and guidance to schools as appropriate.

The LADO will also monitor the progress of cases and liaise with the Local Safeguarding Children Board (LSCB), the police and other agencies to ensure that cases are dealt with as quickly as possible, consistent with a fair and thorough process.

Reviews should be conducted at fortnightly or monthly intervals, depending on the complexity of the case.

Police forces should also identify officers who will be responsible for liaising with the LADO, participating in the strategy discussion or initial evaluation and subsequently reviewing the progress of those cases in which there is police involvement. The police person responsible will also share information, consulting with the Crown Prosecution service about whether to: charge the individual; continue to investigate; or close the investigation. Wherever possible, that review should take place no later than four weeks after the initial evaluation. Dates for subsequent reviews, ideally at fortnightly intervals, should be set at the meeting if the investigation continues.

## Suspension

Suspension should not be seen as an automatic response to an allegation. A person must not be suspended without careful consideration, taking into account the seriousness and plausibility of the allegation and the risk of harm to the student concerned. Suspension should therefore be intended as a safeguard for both the student making the allegation and the member of staff against whom the allegation has been made.

In general, suspension should only be considered in any case where there is cause to suspect a student is at risk of significant harm, it is necessary to allow any investigation to continue unimpeded or is so serious that if proven it might be grounds for dismissal.

Power to suspend is vested in the Headteacher or governing body. However, where an initial evaluation concludes that there should be enquiries made by the police and social care, the LADO should seek guidance from the police and social care about whether the individual should be suspended in order to inform the school. Police involvement does not make it mandatory to suspend a member of staff. This decision should be taken on a case-by-case basis

If the initial suspension meeting takes place prior to the strategy discussion, care should be taken in relation to the amount of information given to the member of staff.

Cotham should also consider whether the result that would be achieved by suspension could be achieved by alternative arrangements such as paid leave of absence; additional supervision; redeployment with the school so that the individual does not have direct contact with the child or 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. If the LADO, police and Social Care have no objections to the member of staff continuing to work during the investigation, the Headteacher should be as inventive to avoid suspension.



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A decision to suspend can be made at any stage during the investigation process, reviewed in the light of new evidence and should be carried out in accordance with the procedure set out in the school Disciplinary Policy. A rationale and justification for suspension should be agreed and recorded by both the Headteacher and the LADO, including what alternatives to suspension have been considered and why they were rejected.

Written confirmation of suspension should be dispatched within one working day, giving as much detail as appropriate for the reasons of the suspension. The person should be informed at the point of suspension who their named contact is within the organisation and provided with contact details.

### Information sharing

During an initial evaluation of the case, or strategy discussion (see Procedure section), the agencies concerned should share all the relevant information that they have about the person who is the subject of the allegation and about the alleged victim.

If applicable and where possible, the police and social care should obtain consent from the individuals concerned to share the statements and evidence they obtain during the course of the investigations with the school for disciplinary purposes. This should be done as the investigation proceeds rather than after it is concluded. When considering further action, school should therefore take account of any relevant information obtained in the course of those enquiries.

### Specific Actions.

#### Following a criminal investigation or a prosecution

The police should inform the employer and LADO immediately following the completion of a criminal investigation and any subsequent trial or it is decided to close an investigation without charge or not to continue to prosecute the case after the person has been charged. In those circumstances the LADO should discuss with the Headteacher whether any further action, including disciplinary action, is appropriate and if so how to proceed. Police and social care should inform the decision.

#### On conclusion of a case.

If an allegation is substantiated and the person is dismissed or the person resigns, the LADO should discuss with the Headteacher and their HR advisor whether the school will decide to make a referral to the DBS for consideration of inclusion on the barred lists is required. **It should be noted that it is a legal requirement for employers to make a referral to the DBS where they think 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 the case of a member of teaching staff whether to refer the matter to the National college for Teaching and Leadership (NCTL) to consider prohibiting the individual from teaching.

Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the Headteacher should consider how best to facilitate that. There are a range of options available as detailed in 'supporting those involved' to use. The head teacher should also consider how the person's contact with the child who made the allegation can best be managed if they are still a pupil at the school.



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### **In respect of malicious or unsubstantiated allegations.**

If an allegation is determined to be unsubstantiated or malicious, the LADO should refer the matter to Social Care to determine whether the child concerned is in need of services or may have been abused by someone else. If an allegation is shown to be deliberately invented or malicious, the Headteacher should consider whether any disciplinary action is appropriate against the pupil who made it; or whether the police should be asked to consider if action might be appropriate against the person responsible, even if he or she was not a pupil at the school

At the conclusion of the case in which an allegation is substantiated, the LADO should review the circumstances of the case with the Headteacher to determine whether there are any improvements to be made to the school procedures or practice to help prevent similar events in the future.

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Revised guidelines Keeping Children Safe in Education – September 2016

Working together to Safeguard Children – Appendix 5. Procedures for managing allegations against people who work with children.



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