

ROBO CODE

RobocodeUK

Policy:	Managing Allegations Against Staff Policy
Date or review:	August 2023
Date of next review:	August 2024
Lead professional:	HR Manager
Status:	Statutory

1. Purpose of policy and guiding principles

- 1.1. The purpose of this policy and related procedures is to provide a clear and consistent approach for managing allegations made against members of staff.
- 1.2. The purpose of this policy is:
 - to comply with Department for Education guidance (“Working Together to Safeguard Children 2020” and “Keeping Children Safe in Education 2020”) and any subsequent guidance.
 - to provide a consistent and transparent approach to how allegations made against a member of staff will be dealt with.
 - to establish a process which is fair to all employees.
- 1.3. All matters relating to allegations are dealt with under the company’s child protection procedures and, therefore, confidentiality is essential. Information should be shared on a "need to know" basis only and all documentation should be carefully stored.
- 1.4. This policy covers all members of staff (regardless of their contract of employment), supply teachers and any volunteers who are engaged within the company. The term ‘member of staff’ is used throughout this policy, but applies to individuals who are employed, or engaged in these capacities, including volunteers.
- 1.5. The company has a duty of care towards its employees. Effective support will be provided for an employee facing an allegation and the company will undertake to deal with the matter efficiently, fairly and consistently. This is to provide protection for the child as well as supporting the adult.
- 1.6. The company has a legal duty 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.

2. Links with other policies or legislation

- 2.1. This policy links with terms and conditions of employment for all staff.
- 2.2. RobocodeUK will treat all employees equally, in accordance with the Equality Policy.
- 2.3. This policy is underpinned by the Directors of the Children’s Act, Education Act and Data Protection legislation.
- 2.4. This policy links to the Staff Disciplinary policy, the complaint procedure and the suite of Child Protection and Safeguarding policies.
- 2.5. This policy is supported by the Staff Code of Conduct and Child Protection training.

3. Consultation

- 3.1. The policy was approved by Directors after consultation.

4. Definitions

- 4.1. For the purposes of this policy an allegation against a member of staff is defined as a complaint or a concern about a member of staff who 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 towards a child or children in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children.
- 4.2. Allegations may be received in a variety of ways, including:
 - direct complaint by a student to another staff member.
 - direct complaint by a parent/carer to another staff member.
 - concerns raised by parties who may have been told about, or witnessed, abuse.
 - direct contact by parent/carer to the local authority, or other external agency.
 - anonymous referral.

- direct complaint to the assessment team or the police.
- 4.3. This policy only covers allegations made by a member of staff about another member of staff, where a student is involved. Where students are not involved in a complaint, this will be dealt with through the staff disciplinary or grievance policies, depending on the nature of the issue.
 - 4.4. Should the allegation be made against the Directors then this should be brought to the attention of the LADO immediately. In such cases where the policy refers to the involvement of the Director then “Operations officer” should be substituted for “the Director”.
 - 4.5. Should the allegation be made against the CEO then this should be brought to the attention of the Directors immediately.

5. Procedure

- 5.1. The procedure for how the company will deal with allegations against staff and volunteers is outlined in **Appendix 1**.
- 5.2. The procedure for how the company will deal with allegations against staff and volunteers that are likely to follow a criminal process is outlined in **Appendix 2**.
- 5.3. The procedure for how the company will deal with allegations made against the Directors, or CEO is outlined in **Appendix 3**.

6. Supporting employees

- 6.1. Individuals should be informed of concerns or allegations as soon as possible, along with a likely course of action. (Unless there is a specific reason why this cannot happen). Individuals should be kept informed of the progress of the matter and any relevant work-related issues. Social contact between the individual and work colleagues should not be prevented, unless this is likely to be prejudicial to gathering or presenting evidence.
- 6.2. Being the subject of an allegation is likely to cause distress to the member of staff. It can also cause distress to the wider company and community. The company is able to provide external support, through the employee assistance programme or occupation health provider.
- 6.3. When a member of staff is suspended they will be provided with a named senior leader, to contact during their suspension.
- 6.4. Employees will also be advised to seek advice from their professional association or an appropriate work colleague.
- 6.5. Any press enquiries will respect the confidential nature of the matter and will be dealt with by the CEO.

7. Confidentiality

- 7.1. Parents/carers should be told of an allegation as soon as possible or as soon as agreed by the designated officer (also known as the ‘LADO’). Parents/carers should be kept informed of the progress of any the investigation.
- 7.2. Parents/carers are entitled to know the outcome of the case (when criminal prosecution is not involved) including the outcome of any disciplinary process. The deliberations of the hearing and the information presented at the hearing cannot be disclosed; however a summary of the outcome can be shared, in confidence.
- 7.3. Parents/carers should be made aware of the prohibition on reporting or publishing allegations (outlined in the Education Act 2002). Parents should be advised to seek legal advice in these situations.
- 7.4. The employer will make every effort to maintain confidentiality and guard against unwanted publicity during an investigation. The Education Act provides restrictions on the publication of material that can identify staff or students. This includes publication via social media.

7.5. The company will refer to the LADO for advice on press speculation, breaches of reporting restrictions and any press enquiries will be dealt with by the CEO.

8. Record keeping

8.1. Records relating to investigations, other than those that show an allegation to be malicious, must be kept until the individual has reached normal retirement age or for a period of 10 years from the allegation, if that is longer.

8.2. Records are retained for the purposes of future reference requests and to clarify information on future DBS checks.

8.3. Cases where the allegation is proven to be false, unsubstantiated or malicious should not be included in employer references.

9. Timescales

9.1. Cases should be investigated fairly and consistently with a view to resolving them as soon as possible.

9.2. Whilst the time taken to investigate and resolve individual cases will depend on a range of factors, generally the timescales below should be noted:

- Where it is clear the allegation is unsubstantiated or malicious these should be resolved in one week.
- 80% of cases resolved in one month.
- 90% of cases resolved in three months.
- Exceptional cases could take longer than twelve months.

9.3. At all points the individual must be kept informed of progress, and the reasons for any delays.

10. Roles and responsibilities

10.1. The role of the Director/CEO

- The role of CEO is to ensure that the policy is applied fairly and consistently across the company.
- The role of Director is to ensure that the policy is applied fairly and consistently across an company.
- The CEO will take the role of Director where an allegation is made against a member of company staff (not based in an company).
- The Director will be kept informed of any ongoing investigations into allegations, but will not become involved in, nor have details linked to, the allegations. Any such knowledge would prejudice their possible involvement in any future appropriate action which the Director may be advised to take. In addition, the Director has to be clear that they are not taking any action that would prejudice the position of the individual under investigation.
- Issues relating to allegations are of a confidential nature in accordance with the company's Child Protection Procedures. Information should only be shared on a "need to know" basis. Where it becomes apparent that there is a potential impact or perceived impact of any allegation on an company community the Director will inform the Chair or Vice Chair of the Local Governing Body. All details will be anonymised.

10.2. The role of the Directors

- The Directors will monitor, evaluate and review policies in line with statutory and best practice guidelines.
- The Board of Directors will approve this policy and is committed to ensuring that this policy is applied consistently and fairly.
- Directors will receive a relevant factual statement provided by the HR Director on serious cases.

10.3. The role of the employee/other staff

- DSLs in the company will ensure that the new staff induction programme in their company ensures that new employees are made aware of the company's child protection and safeguarding procedures. This includes introduction to the Staff Code of Conduct.

- Appropriate leaders and managers will ensure that when volunteers, supply teachers or other visitors are invited to work with students, they are made aware of the company's child protection and safeguarding procedures.
- All staff will be familiar with policies and procedures relevant to Child Protection.
- All staff are responsible for attending relevant training events, undertaking training programmes, reading training materials and updating their professional knowledge.
- All staff are responsible for raising concerns, as outlined in this policy.
- All staff are responsible for their own professional conduct, including respecting the confidential and sensitive nature of dealing with allegations against staff.

11. Monitoring and Evaluation

- 11.1. Through information sharing with each senior leadership team, supported by HR, each serious case will be discussed to establish if lessons can be learnt and policies and practices meet the needs of the company.
- 11.2. Any concerns will be brought to the Director in the first instance.
- 11.3. The Director with responsibility for child protection will ensure that this policy meets statutory requirements.

Appendix 1

This appendix details how allegations against staff will be dealt with.

1) Initial considerations and steps

- a) The procedures for dealing with allegations needs to be applied with common sense and judgment. Not all allegations warrant consideration of a police investigation or enquiries by children's social care services.
- b) Any allegation of abuse by a member of staff against a student must be reported immediately to the Designated Safeguarding Lead (DSL) or the Director. In the absence of either of these staff, an allegation should be reported to a deputy DSL.
- c) Where the allegation is against the DSL then the allegation must be reported to the Directors.
- d) 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 DSL or, if that is not possible, themselves pass details of the allegation to the DSL immediately.

2) Immediate response to an allegation

- a) The student making the allegation should not be left alone, or with other students, until there have been consultations with the company's DSL and a course of action agreed, including the appropriateness of the student remaining in the company.
- b) The member of staff receiving the complaint must not seek to investigate the allegation themselves, interview or approach students about the matter.
- c) Where possible, details of the allegation should be obtained in writing using a statement form, signed and dated by the person receiving the allegation and the student or person who is making the allegation. The statement can either be completed by the individual or on their behalf but all statements must be countersigned by the person giving the statement as a true record.

3) Initial consideration of allegation

- a) Should the allegation against the member of staff appear to meet any of the criteria outlined in 4.1.(main body of this policy), then the DSL, or other designated person, will report the allegation to the Local Authority Designated Officer (LADO) the same day that the allegation is received. The DSL will provide any further details of the allegation and the circumstances in which it was made.
- b) Where the allegation has been referred to the LADO the company will not investigate the allegation at this stage. The company will not act before receiving advice from the LADO on the appropriate action that needs to be taken. The discussion between DSL and LADO will consider whether there is evidence or information that establishes that the allegation is false or unfounded.
- c) Where the initial consideration has involved the LADO, the matter should not be brought to the accused person's attention until this has been agreed by LADO or at a strategy meeting.
- d) Where a serious allegation requires the intervention of children's social care services and/or the police the LADO will consult the appropriate agency.
- e) If the allegation is not patently false and there is cause to suspect that a student may be suffering or is likely to suffer significant harm, the LADO will make the decision whether or not a strategy meeting will be held, in accordance with their procedures. In these circumstances, the strategy discussion will be led by the LADO who will also invite representation from the company. This will usually be a senior leader.
- f) If there is no cause to suspect that 'significant harm' is an issue, but a criminal offence might have been committed, the LADO may inform the police. Alternatively, either the LADO or the company can advise parents that they have a right to refer the matter to the police, and this contact should be made directly by parents. The police will decide if a criminal investigation will take place. That decision is likely to involve the company and other multi-agency partners. Please refer to **Appendix 2** for information on how allegations that are likely to follow child protection or criminal process and proceedings.
- g) If it is agreed, following investigation by the LADO, company representatives, or police, that the matter falls into the category of inappropriate behaviour as opposed to child protection, then the company may still pursue an internal investigation, in line with the Staff Disciplinary policy and

procedures. An agreement will be made as to who will inform the parent/carer of this course of action.

- h) The DSL, or another designated person, will agree with the LADO what the course of action will be, and what will be communicated in writing to the individual. A representative of the company (or the HR team, if this is more appropriate) will then follow up on any agreed actions.
- i) Where the allegation does not meet the criteria to refer to LADO but still raises a concern about the professionalism or behaviour of a member of staff, but not involving a criminal offence, the company may still pursue an internal investigation, in line with the Staff Disciplinary policy and procedures.

4) Action following initial consideration

- a) Following agreement with LADO, or where there is no LADO involvement, the company will deal with the matter using its internal procedures. This ranges from taking no further action to using the disciplinary process, or to not use the person's services in the future (freelance or agency staff).
- b) The Director will appoint a member of senior leadership to investigate the matter further. In exceptional cases, a member of company senior leadership may be appointed as an investigating officer. This investigation will follow the investigation process and timelines outlined in the Staff Disciplinary policy and procedures.
- c) The company will make the decision whether to suspend the member of staff during this investigation; to protect the individual, the investigation and staff and students. Suspension should not be the default position, and the individual should only be suspended if there is no reasonable alternative. All alternatives to suspension should be considered and documented and HR advice should be sought. The process of suspension is outlined in the Staff Disciplinary policy and procedures.
- d) This investigation will inform whether disciplinary action will be considered and at all stages of the process the member of staff will have right to representation.
- e) In preparing their investigation, the investigating officer will pay particular regard to the following:
 - i) a list of potential witnesses, which will include the alleged victim.
 - ii) if the incident occurred in a classroom (or other public area), a random selection of students will be interviewed, if appropriate.
 - iii) assessing the credibility of the person making the allegation. In doing so, consideration should be given to the issues of listening to young people, treating each allegation seriously and professionally and ensuring that the person does not feel intimidated in making the allegation.
 - iv) consent from parents/guardian, if appropriate.
- f) In undertaking the investigation the investigating officer will pay particular regard to the following:
 - i) the student should be listened to but not interviewed or asked to repeat the account.
 - ii) avoid questions, particularly leading questions.
 - iii) the student should not be interrupted when recalling significant events.
 - iv) all information should be noted carefully, including details such as timing, setting, who was present and what was said, in the child's own words. The account should be obtained verbatim or as near as possible.
 - v) care should be taken not to make assumptions about what the child is saying or to make interpretations.
 - vi) 'listened to' means just that; on no account should suggestions be made to children as to alternative explanations for their worries.
 - vii) all actions subsequently taken should be recorded.
- g) If, at any point, the investigating officer, becomes aware that there may be child protection issues emerging, the investigation will be stopped and referred to the LADO. See section 3a above.
- h) Once the investigation is concluded a recommendation will be made to move to disciplinary action or to deal with the matter through informal counselling. The LADO will be informed of this decision.
- i) In any case where Children's Social Care has undertaken enquiries to determine whether the student or students are in need of protection, the DSL will take account of any relevant information obtained in the course of those enquiries when considering disciplinary action. It is

expected that the LADO will continue to liaise with the company, or company representative, on the progress of the case and provide advice or support, as required or requested.

5) Outcome of investigation

- a) The following definitions should be used to determine the outcome of allegation investigations:
 - i) **Substantiated:** there is sufficient evidence to prove the allegation.
 - ii) **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive.
 - iii) **False:** there is sufficient evidence to disprove the allegation.
 - iv) **Unsubstantiated:** there is insufficient evidence to either to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
 - v) **Unfounded:** this reflects cases where there is no evidence or proper basis which supports the allegation being made.

Each outcome is dealt with below:

6) Outcome of investigation - Substantiated

- a) If the investigation concludes that the matter is substantiated then it would usually move to a disciplinary hearing following the Staff Disciplinary policy and procedures. If the matter is not serious enough to pursue a full disciplinary hearing, then the employee may be issued with a management instruction, as outlined in the Staff Disciplinary policy.
- b) Documents relating to an investigation must be retained in a secure place, together with a written record of the outcome of the investigation. Where disciplinary action has been taken this will be retained on the member of staff's personal and confidential file in accordance with section 8 (main body of policy).
- c) If the member of staff is dismissed or resigns before an investigation is complete the process should still be followed. The individual should be made aware of this and informed about the employer's statutory duty to report the case to the Department for Education for consideration for their debarring from further employment. It is important to reach and record a conclusion in all cases to ensure the safety or welfare of children.
- d) The company will not agree to a settlement agreement or agreed resignation in which the employee seeks to avoid a full investigation and/or referral to the DBS. Refer to most recent statutory guidance (e.g. KCSIE 2020) for further advice.

7) Outcome of investigation - Malicious, False, Unsubstantiated and Unfounded

- a) If the investigation concludes that the allegation is malicious there will be no further action against the member of staff. Documents relating to malicious allegations will be removed from personnel records.
- b) In the case of malicious allegations the Director will, if appropriate, seek to discipline the student making the allegation. (The company will determine whether the student needs further support or whether the allegation could be an indicator of other concerns before agreeing a sanction).
- c) If the investigation concludes that the allegation is false there will be no further action against the member of staff.
- d) If the investigation concludes that the allegation is unsubstantiated there will be no further action against the member of staff.
- e) The investigation may conclude that the allegation is unfounded. This would be used to reflect cases where there is no evidence or proper basis which supports the allegation being made. It may also indicate that the person making the allegation misinterpreted the incident, was mistaken about what they saw or may not have been aware of all the circumstances. In these cases, there will be no further action against the member of staff.
- f) In all cases, the member of staff will be informed, in writing, of the outcome and any other action taken. In all cases, the Director should consider if informal counselling would be appropriate to support the member of staff and avoid difficult situations in the future.
- g) Documents relating to an investigation (other than allegations shown to be malicious) must be retained in a secure place by the company, together with a written record of the outcome of the investigation and any support provided. This will be retained on the member of staff's personnel file with copies provided to the individual.

8) Informal counselling

- a) If following investigation, it is recommended not to proceed with disciplinary action but there is a need to support the employee in terms of understanding their professional expectations, the Director can agree one, or a combination of the following actions:
- consider whether support, counselling and/or informal professional advice for the employee is appropriate and the form this might take and make arrangements to offer such appropriate support to the employee.
 - consider whether CPD, or other training is appropriate, the form this might take and appropriate arrangements.
 - a temporary change in role or other duties the employee should undertake whilst they seek this support/CPD.

9) Supply Teachers

- a) In the event of a complaint about a supply teacher, the Administration/Cover manager should be contacted and will make the necessary communication with the supply agency, based on HR advice.
- b) In all cases, the company will co-operate with the supply agencies procedures and policies in dealing with complaints about their staff.

Appendix 2

This appendix details the procedures for dealing with allegations made against staff or volunteers that are likely to be dealt with under child protection or criminal proceedings.

1. Actions following the strategy meeting

- 1.1. Following discussion at the strategy meeting, the police will decide if the complaint is a criminal offence or a child protection matter.
- 1.2. At this point the police will liaise with the individual and inform and update the Director or DSL of how their investigation is progressing.
- 1.3. Where the police are intending to pursue a criminal investigation, the company will make the decision as to whether the member of staff should be suspended. HR advice should be sought where criminal investigations are being considered.
- 1.4. Suspension will be considered, in line with the Staff Disciplinary policy and procedures. This decision will be based on the Director's risk assessment of the situation. Any and all alternatives to suspension should be considered.
- 1.5. If the company suspends the member of staff they will be entitled to representation at meetings, and will be given a named member of senior leadership to contact during their suspension.
- 1.6. The matter will be treated as strictly confidential and the company will not take any action that is likely to prejudice or impact the police investigation. Advice will be sought from the police throughout.
- 1.7. If following the risk assessment, the company decides not to suspend the employee then provision will be made to ensure that contact with the alleged victim is avoided and any other risks to the company is minimised. Supervision maybe required. Refer to KCISE 2018 for further advice on alternatives to suspension.

2. Actions following police investigation – No further criminal action

- 2.1. Following the police investigation, the police will update the company (or company) representative and LADO of the outcome. If there is no criminal action the company will then make the decision whether an internal investigation is required, based on whether the individual's actions could constitute inappropriate behaviour or conduct.
- 2.2. If the member of staff is suspended during this investigation, a decision will be made as to whether the suspension remains in place during the internal investigation. HR advice should be sought at this stage.
- 2.3. When the matter has been referred to the police, it should be understood that, where a police investigation has been undertaken the outcome may be that there is "insufficient evidence to proceed". It is normal for this to be the only recorded statement made by the police where they have not taken any further action against a person against whom allegations have been made. This outcome refers to a criminal investigation and the company may still pursue an internal investigation.

3. Actions following police investigation – Criminal action

- 3.1. Following the police investigation, the police will update the company (or company) representative of the outcome. If the police intend to pursue criminal action (including issuing a caution), the company may pursue disciplinary action in line with the Staff Disciplinary policy and procedures.

4. Actions during police investigation

- 4.1. Depending on the nature of the allegations and advice from the police, employees should be aware that the company can pursue internal disciplinary action during the police investigation.
- 4.2. Any internal investigation would need to recognise the confidential nature of the police investigation and not prejudice this criminal investigation.

Appendix 3

This appendix details the procedures for dealing with allegations made against the Director.

1. Allegations made against the Director

- 1.1. When the allegation is made about the Director, direct contact should be made with the Board of Directors and LADO.
- 1.2. Any allegations about a Director should be referred to the CEO and company HR Manager.
- 1.3. The Board of Directors will appoint an Investigating Officer with the support of the HR Manager who will follow procedures in relation to discussion with the LADO to determine whether thresholds for child protection are met.
- 1.4. The LADO or Board of Directors will contact the Director to inform them of the allegation.
- 1.5. If the allegation falls into the category of inappropriate behaviour, the Board of Directors may obtain support from the HR Manager about how best to proceed.
- 1.6. If the allegation is treated as a Child Protection referral the normal procedures will apply, with the Board of Directors taking the Director's role in the investigation.
- 1.7. The Board of Directors will consider the need for suspension with the support of the HR Manager.

Where allegations are made against the CEO, this should be referred to the Board of Directors. The Director will take the role of the CEO.