

SHERBORNE AREA SCHOOLS' TRUST



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Allegations of abuse against staff policy

Published:	September 2020
Review due:	September 2021
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SAST Document Control Table			
Document Title	SAST Allegations of Abuse Against Staff Policy		
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Version No.	3.0		
Date Approved	September 2020		
Approved By	TLI Committee		
Date of Next Review	September 2021		
Document History			
Version	Date	Author	Notes of Revisions
2.0	Jan 2020	C. Watson	<p>Inclusion of recommended targets for investigation and resolution of cases. Recommendation of targets acknowledgement complexity and other factors which may impact individual cases.</p> <p>Recognition that senior leaders evidence all reasonable alternatives to suspension are considered in response to recent case law.</p> <p>Inclusion of “Unfounded” as a further category when determining the outcome of an investigation. This is a nuanced difference to the usual term used of “unsubstantiated”.</p>
3.0	September 2020	C. Watson	<p>In response to KCSIE 2020 guidance, inclusion of bullet point 4 whereby allegations may be investigated which consider that a member of staff or volunteer has behaved or may have behaved in a way that indicates they are not suitable to work with children. This is quite broad and requires SAST to consider wider issues (including behavior outside working hours) and not just</p>

			allegations relating directly to behavior towards children. Inclusion of guidance of managing allegations against agency staff.
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Introduction

Sherborne Area Schools' Trust (SAST) is committed to providing the highest level of care for both its pupils and its staff. It is extremely important that any allegations of abuse against a teacher, any other member of staff, or volunteer in our school is dealt with thoroughly and efficiently, maintaining the highest level of protection for the child whilst also giving support to the person who is the subject of the allegation. Our policy is in line with statutory guidance **Keeping Children Safe in Education 2020** issued by the Department for Education.

This policy is designed to ensure that all staff, pupils and parents or carers are aware of the procedure for the investigation of allegations of abuse in order that all complaints are dealt with consistently and efficiently as possible.

We hope that having a clear policy outlined will help pupils to feel comfortable that they can voice concerns about any member of staff. Allegations will be reported to the head teacher immediately or to the chair of governors/ Chief Executive Officer (where the head teacher is the subject of an allegation). All allegations will be taken seriously and investigated immediately.

Purpose

The procedure for dealing with allegations against staff depends on the situation and circumstances surrounding the allegation. This policy must be followed when dealing with allegations but may be adapted to each case. This policy will be used alongside the SAST's **Complaints Policy** and **Child Protection Policy**.

This policy will be used in any case where it is suspected or alleged that a member of staff or a volunteer at SAST has:

- behaved in such a way that has harmed a child or may have harmed a child. Our **Child Protection Policy** outlines what it means to harm a child
- committed a criminal offence against or related to a child
- behaved in a way that indicates they would pose a risk of harm to children
- behaved or may have behaved in a way that indicates they may not be suitable to work with children

Timescales

It is imperative that allegations against staff are dealt with as quickly as possible to:

- minimise the risk to the child
- minimise the impact on the child's academic progress
- minimise stress to the employee concerned
- ensure a fair and thorough investigation for all parties.

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 achieved in all but truly exceptional cases. The DfE expect that 80 per cent of cases should be resolved within one month, 90 per cent 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, they should be resolved within one week. Where the initial consideration decides that the allegation does not involve a possible criminal offence, the trust as the employing body will deal with it, although if there are concerns about child protection, the trust should discuss them with the designated officer(s). In such cases, if the nature of the allegation does not require formal disciplinary action, the trust should instigate appropriate action within three working days. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days.

To enable this to happen, all staff, parents, and students should be aware of the procedures set out in this policy.

Procedure

Reporting an allegation

All allegations made against staff should be reported immediately to the Head teacher. Complaints about the Head teacher should be reported to the CEO who will then contact the designated officer at the relevant local authority (dependent on geographic location of the school).

Allegations against a teacher who is no longer teaching or historical allegations of abuse should be referred to the police.

Staff who are concerned about the conduct of a colleague towards a pupil are undoubtedly placed in a very difficult situation. They may worry that they have misunderstood the situation and they will wonder whether a report could jeopardise their colleague's career. All staff must remember that the welfare of the child is paramount and must report their concerns immediately.

The designated officer will be contacted by the Head teacher/Delegated Representative/CEO (referred to as **Case Manager**) and a discussion will take place to consider the nature, content and context of the allegation and agree a course of action. They may decide whether:

- more information is required; or
- no further actions are needed; or
- a strategy discussion should take place; or
- there should be immediate involvement of the police or social care.

SAST will share available information with the designated officer about the allegation, the child, and the person against whom the allegation has been made and consider whether a police investigation or a strategy discussion is needed. Representatives from other agencies may be invited to the discussion and could include representatives from health, social care and police.

Investigation

An investigation into the allegation is normally carried out by children's social services or by SAST. This will be agreed at the initial evaluation stage. Where SAST is not conducting the investigation it will cooperate with investigative agencies.

Internal investigations must be second to any safeguarding investigation and may need to be delayed until the external investigation is complete.

The following definitions should be used when determining the outcome of the investigation:

- **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.
- **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegations being made.

Disciplinary Action

If a disciplinary hearing is required and can be held without further investigation, the hearing should be held in accordance with the timescales specified within SAST's Disciplinary Policy. If a police investigation is being undertaken, consideration will need to be given as to whether disciplinary action can be taken in parallel with the criminal process, or whether the disciplinary process will need to await the completion of the police enquiries and/or prosecution.

Supporting those involved

The person(s) who makes the allegation and their parents/carers

Parents and carers will be notified if their child makes or is involved in an allegation against staff if they do not already know. However, if the police or social services are to be involved, they will be contacted first and will advise as to what information may or may not be disclosed to the parents. The relevant School Safeguarding Lead is designated to the role of liaising with the parents and child about the case and ensuring that they are fully informed as far as is possible. Parents and carers will be made aware of any progress in the investigation, and where there is no criminal prosecution, the outcome will be explained to them. This may be a disciplinary outcome. During a disciplinary hearing the deliberations and information used for making a decision are usually confidential, but parents will be told the outcome.

Social services and the police may be involved and will provide the school with advice on what type of additional support the child may need.

The trust's **Whistleblowing Policy** enables staff to raise concerns or allegations against their colleagues in confidence and for a sensitive enquiry to take place.

The employee

SAST has a duty of care to its employees and will do everything to manage and minimise the stress of any allegation and provide support during the disciplinary process.

The person who is the subject of the investigation will be informed as soon as possible and usually after the initial discussion with the designated officer. The employee will then be advised on what the next course of action will be. However, if the police or social services are to be involved, they will be contacted before the employee, and will advise as to what information may be disclosed to the person under investigation.

SAST's Head of HR will keep the employee informed of the progress of the case and any other work-related issues.

The employee may need additional support and the school will consider what might be appropriate to best accommodate this. Access to the trust's welfare counselling service, Care First will also be provided to the affected employee.

If it is a criminal investigation and the police are involved, they may provide this additional support.

Allegations made against Agency staff

In some circumstances, SAST will have to consider an allegation against an individual not directly employed by the Trust. For example; supply teachers provided by an employment agency. Although, SAST is not the employer, the Trust has a responsibility to ensure allegations are dealt with properly. Where safeguarding concerns have been reported in relation to an individual not directly employed by SAST, the Trust must establish the facts and liaise with the LADO to determine a suitable outcome. In consultation with the Head of HR, schools should discuss with the employment agency whether it is appropriate to suspend the supply teacher, or redeploy them to another part of the school whilst they carry out their investigation.

Employment Agencies should be fully involved and co-operate with the process and with any enquiries from the LADO, Police or Children's social services. SAST will often lead the investigation as the Trust will have the necessary access to staff and children to enable a fair and thorough investigation is undertaken. Findings will then be shared with the agency.

Agency staff should be advised to contact their trade union representative or a colleague for support. The allegations management meeting (often arranged by the LADO) should encourage information sharing to ensure

that any previous concerns or allegations known to the agency are taken into account by the Trust during the investigation. The SAST Managing Allegations Policy will be shared with all agencies in use by the Trust.

Confidentiality

SAST will make every effort to guard the privacy of all parties and guard against unwanted publicity during and after an investigation into an allegation. It is in everyone's best interest to maintain this confidentiality to ensure a fair investigation with minimum impact for all parties.

Parents and Carers will be made aware of the requirement to maintain confidentiality about any allegations whilst investigations are ongoing.

The Case Manager should take advice from the designated officer(s), police and children social care 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; and
- how to manage press interest if, and when, it should arise.

A breach of confidentiality will be taken seriously and may warrant its own investigation.

Suspensions

SAST will not suspend a member of staff without serious consideration, and will not do it automatically once an allegation has been made. Depending on the nature of the case, it may be possible that alternative arrangements are made so that the individual can continue working.

The employer holds the power to suspend an employee but will listen to the views of the police and or social care regarding suspension. An individual will be suspended where there is no reasonable alternative.

In the case of suspension, the employee will receive written confirmation within one working day and will be informed of the reason for the suspension.

Resignations

If an employee resigns when the allegation is made against them or during an investigation, the investigation will continue until an outcome has been reached, with or without the employee's co-operation. They will be given full opportunity to answer the allegation. Settlement agreements will not be used in situations which are relevant to these procedures.

Record keeping

Where an allegation is found to be malicious, it will be removed from the record of the employee concerned.

For all other allegations, records of investigations and outcomes will be kept in the employee's personal file and they will be given a copy. The record will be kept, including for people who leave the organisation, at least until the person reaches normal retirement age or for 10 years if that will be longer, from the date of the allegation. Details of any allegation made by a pupil will be kept in the confidential section of their record.

Action on conclusion of the case

If it is decided that the employee may return to school after a suspension then provisions will be put in place by the school to ensure that the transition is as smooth as possible. This may involve a phased return for a trial period or the use of another member of staff as a support system in the short term. If the child who made the allegation is still at the school, the school will consider what needs to be done to manage the contact between employee and child.

Action in the case of false or malicious allegations

Where an allegation is proved to be false, the designated safeguarding Lead may refer to social services to determine whether the child is in need of support or has been abused by someone else.

The school's **Behaviour Policy** sets out the disciplinary action that may be taken against pupils who are found to have made malicious accusations against school staff. The head teacher may consult the local governing body and the CEO when considering what action to take.

If the claim has been made by a person who is not a pupil, SAST may pass the information to the police who may take further action against that person.

Referral to the Disclosure and Barring Service (DBS) and Teacher Regulation Agency (TRA)

On conclusion of the case where an allegation has been substantiated, the school should consult the guidance for making referrals to the DBS and the TRA in order to determine whether a referral needs to be made. Making the referral is the responsibility of the Trust Board but the LADO will be available for advice.

After the Case- Learning Lessons

No matter what the outcome is of an allegation of abuse against staff, SAST will review the case to see if there are any improvements that can be made in its practice or policy that may help to deal with cases in the future. This will include issues arising from the decision to suspend the employee, the duration of the suspension and whether or not the suspension was justified. Where the individual is reinstated, lessons will be learnt from the use of suspension in these cases.