Procedure for Dealing with Allegations of Abuse against Staff and Volunteers in Schools

Believing and Achieving Together

Signed:

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1 Scope

This procedure is recommended for adoption by the governing bodies of all schools and academies. This procedure relates to all staff working with children and young people, whether in a paid or voluntary position, including those who work with children and young people on a temporary or supply basis.

This procedure is consistent with the Northumberland Safeguarding Children Board's procedures for dealing with allegations of abuse and takes into account the Department for Education's specific guidance for schools.

2 Purpose

This procedure is intended to be used to manage cases of allegations which might indicate that a person is unsuitable to work with children in their present position, or in any capacity.

The purpose of the procedure is to ensure that any allegation of abuse made against a member of staff or volunteer is dealt with fairly, quickly and consistently. The procedure aims to provide effective protection for the child and at the same time provide support for the person who is the subject of the allegation whilst the matter is investigated.

3 Policy statement

The governing body is committed to safeguarding and promoting the welfare of children and young people and expect all staff and volunteers to share this commitment.

The standards expected from staff and volunteers are set out in the school's Code of Conduct and the disciplinary rules are set out in the school's Disciplinary Procedure. The governing body takes seriously any allegation that a member of staff or volunteer has acted inappropriately regarding the welfare of children and aims to deal with these on a timely, consistent and fair basis. Unacceptable conduct by employees may be dealt with under the school's disciplinary procedure and could include dismissal from employment. Unacceptable conduct by volunteers could result in the end of the arrangements for their services. In all cases, allegations of a criminal nature will be referred to the police.

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The governing body recognises that it is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. Every effort will be made to avoid any unnecessary delay. The time taken to investigate and resolve individual cases will depend on a variety of factors including the nature, seriousness and complexity of the allegation. The timescales shown for different actions within the procedure are therefore indicative and will be adjusted where necessary, particularly where they are outside the control of the school.

4 Legal considerations

- **Child protection:** There are various statutory requirements on local authorities and schools/academies to safeguard and promote the welfare of children. The framework for managing cases of allegations of abuse made against people who work with children is set out in 'Working Together to Safeguard Children: a guide to inter-agency working to safeguard and promote the welfare of children'.

- **Publication of information:** Legislation prohibits the publication of any material (including speech, writing, relevant programme or other communication in whatever form) that may lead to the identification of a teacher who has been accused of a criminal offence by, or on behalf of, a pupil from the same school (where the identification would identify the teacher as the subject of the allegation). The report restrictions apply until the point that the accused person 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.

- **Statutory reporting:** Schools are regulated activity providers and have a legal duty to refer relevant cases to the Disclosure and Barring Service (DBS) where hat a person has harmed or posed/poses a risk of harm to children or vulnerable adults.

4 Roles and responsibilities

- **Governing body:** The governing body has overall responsibility for ensuring that there are appropriate procedures in place for dealing with allegations of abuse made against staff and volunteers working with children that comply with guidance from the local authority and locally agreed inter-agency procedures.

- **Headteacher:** The headteacher is responsible for ensuring that the policies and procedures adopted by the governing body are fully implemented and followed by all staff.

- **Local Authority Designated Officer (LADO):** The LADO has overall responsibility for overseeing the procedures for dealing with allegations, for resolving any inter-agency issues and for liaison with the Northumberland Safeguarding Children Board. In addition, they will also be involved in the management and oversight of individual cases including providing advice and guidance, liaising with the police and children's social care and monitoring the progress of cases to ensure they are dealt with quickly, consistently and fairly.

- **Employees and volunteers**: All employees and volunteers should understand what to do if they receive an allegation against another member of staff, or if

they themselves have concerns about the behaviour of another member of staff.

5 Procedure for dealing with an allegation of abuse against a member of staff or volunteer

It is essential that any allegation of abuse made against a teacher or other member of staff or volunteer is dealt with very quickly, in a fair and consistent way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation. Any unnecessary delays should be eradicated.

The flowchart in Appendix 1 summarises the process.

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5.1 Initiating the procedure

This procedure must be initiated where it is alleged that the member of staff or volunteer 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 s/he is unsuitable to work with children.

This procedure can be initiated where concerns arise about:

- a person's behaviour in their personal life which may impact upon the safety of children to whom they owe a duty of care;
- a person's behaviour in relation to his/her own children; or
- the behaviour in the private or community life of a partner, member of the family or other household member.

5.2 Reporting of allegations

The person to whom the allegation is reported must:

- treat the matter seriously and confidentially,
- ensure that, where necessary, the child receives appropriate medical attention;
- make a written record of the information recording the own words of the child and the person who the allegation is against, when the alleged incident took place, who was present and what happened;
- sign and date the written record;
- report the matter immediately to the headteacher, or deputy headteacher in their absence (or if the allegation is about the headteacher, it should be reported to the chair of governors).

The headteacher must:

- countersign and date the written details of the allegation, signed and dated by the person who received the allegation;
- record any other information and names of potential witnesses;
- establish a chronology of significant events;
- consider any information already known about those involved (discretely check any incident or log books); and
- on the basis of these factors make a professional judgement and record the reasons for any subsequent action taken.

In some cases allegations may arise from a complaint under the Whistleblowing Policy and Procedure. Where the nature of the complaint meets any of the criteria set out above, this should be reported to the headteacher immediately.

5.3 Initial consideration

If the allegation meets any of the criteria set out above, (or if there is uncertainty about whether it does or doesn't), the headteacher should report it to the LADO the same day. It is also helpful to notify the school's HR contact. If emergency action is required to protect the child concerned, the child protection procedures

will take precedence and no action should be taken until the discussion with the LADO has taken place.

It is important to ensure that even allegations which appear less serious are seen to be followed up and taken seriously, and that they are examined objectively by someone independent of the school. The LADO should be informed of all allegations which come to the school's attention and which appear to meet the criteria in 5.1 above so that s/he can consult the police and social care colleagues as appropriate.

The initial sharing of information and evaluation between the LADO and the headteacher may lead to:

- a decision that no further action is 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 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;
- a decision that the allegation appears to have some foundation and there is reason to believe that the child is suffering or is likely to suffer significant harm, the LADO should immediately refer to Children's Social Care and ask them to convene a strategy discussion as soon as possible. This will include the police and should also include the LADO and the headteacher (or chair of governors, if the headteacher is unavailable or the allegation concerns the headteacher). The school's HR contact is usually invited to provide advice to the headteacher about the staffing implications arising from the discussion;
- a decision that a police investigation may also be needed, so the LADO should conduct a similar strategy discussion with the police, the school and any other agencies to evaluate the allegation and decide how it should be managed; or
- a decision that the allegation is such that it is clear to the LADO that investigations by police and/or enquiries by Children's Social Care are not necessary in which case the LADO will discuss the next course of action with the headteacher. This is an initial evaluation discussion, which is an extension of the initial consideration by the LADO and the headteacher. It may be necessary to check out certain pieces of information before deciding whether there is reason to believe that the allegation meets the criteria in paragraph 5.1 above.

The LADO and the headteacher should agree a plan of action, including how/when to inform parents/carers, how/when to inform the subject of the allegations and how the LADO and the headteacher will keep each other informed of developments. Both must keep and maintain appropriate records which ensure there is a chronology of discussions, decisions and actions taken.

The person against whom the allegation is made should not be informed of the allegation until a decision is made on how and when this should happen. This decision will be made either at the strategy discussion or during discussions between the headteacher and the LADO.

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5.4 Terminology regarding investigation outcomes

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

Substantiated: there is sufficient identifiable evidence to prove the allegation;

False: there is sufficient information to disprove the allegation;

Malicious: there is clear evidence to provide there has been a deliberate act to deceive and the allegation is entirely false;

Unfounded: there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively, they may have been unaware of all the circumstances.
Unsubstantiated: there is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

5.5 Suspension

There will also need to be consideration as to whether the subject of the allegation needs to be suspended from duty.

The power and decision to suspend rests with the headteacher (or, where necessary the chair of governors. The local authority, the police or children's social care cannot require the school to suspend a member of staff. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by social care and/or an investigation by the police, the LADO should canvass police and social care views about whether the member of staff needs to be prevented from having contact with children so that this can inform the school's consideration.

Suspension should not be the default option and all other options should be considered before suspending a member of staff. Suspension should only be considered in a case where there is cause to suspect a child or other children at school is/are at risk of significant harm or the case is so serious that it might be grounds for dismissal. In addition, the headteacher should consider the potential permanent professional reputational damage to employees which can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended. If suspension is deemed appropriate, the rationale, justification and which alternatives to suspension have been considered and why they were rejected should be recorded by both the headteacher and the LADO. Where it is deemed appropriate to suspend, the person should be advised sensitively and written confirmation should be dispatched within one working day, giving as much detail as appropriate for the reasons for the supervision.

Arrangements for suspension until the allegation or concern is resolved are set out in the school's Disciplinary Procedure and should be decided in consultation with the school's HR contact. Alternative arrangements may include allocating

the employee work that does not involve contact with children or enabling the employee to work from an alternative location.

5.6 Strategy discussion

If the allegation is not demonstrably false or unfounded, and there is cause to suspect a child is suffering or is likely to suffer significant harm, the LADO will refer to children's social care and ask for a strategy discussion to be held. This 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 pupils in certain circumstances, including dealing with disruptive behaviour.

The monitoring of case progress will be undertaken by the LADO, through regularly reviewing strategy meeting recommendations and action plans. This will involve liaising with the police and/or children's social care, and the headteacher as appropriate.

A final strategy meeting or evaluation discussion should be held at the end of the enquiries to ensure that all tasks have been completed and where appropriate, an action plan agreed for learning lessons to inform future practice.

5.7 Confidentiality

The school must make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. Legislation prohibits the publication of any material (including speech, writing, relevant programme or other communication in whatever form) 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 the identification would identify the teacher as the subject of the allegation). The report restrictions apply until the point that the accused person 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 individual may waive their right to anonymity. For example, a parent discussing the allegation on a social networking site would be in breach of the report restrictions.

The headteacher should take advice from the LADO, police and children's social care 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.

5.8 Written records

The record of the discussions and meetings is an important working document and one which may at some time need to be shared with the individual concerned. Care should be taken to ensure that any record contains, essential facts, summary of discussions which accurately reflect the contributions made,

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the decisions reached, with information outlining the reasons for these decisions, and a translation of these decisions into an action plan, which can inform any disciplinary action which may be taken.

The recipient agencies and professionals should retain copies of these notes in accordance with their own record retention policies.

Should the matter result in formal action or an appeal, the individual concerned will have a right to have access to any documents which have a bearing on his/her case. As such, care should be taken when producing minutes of strategy or initial evaluation meetings to ensure that any personal details relating to a child or their family can be easily removed.

5.9 Case where children's social care undertakes enquiries

In the strategy discussion children's social care should consider what support the child or children involved may need.

Wherever possible children's social care should obtain consent from the individuals concerned to share the evidence they obtain with the school for disciplinary purposes. That should be done as the investigation proceeds rather than after it is concluded.

In any case in which children's social care has undertaken enquiries to determine whether a child or children are in need of protection, any information obtained in the course of those enquiries which is relevant to a disciplinary case should be passed to the school once the enquiries are concluded. The school will then consider any action that it needs to take, as set out below.

5.10 Case subject to police investigation

Where a police investigation is necessary, the joint evaluation will also consider whether there are matters which can be taken forward under the disciplinary procedure in parallel with the criminal process or whether any disciplinary action will need to wait completion of the police enquiries and/or prosecution.

The agencies concerned should share all relevant information they have about the person who is the subject of the allegation and about the alleged victim.

In such cases the police should consider what support the child or children involved may need.

If a criminal investigation is required, the police will aim to complete their enquiries as quickly as possible and will keep the progress of the case under review. At the outset they should set a target date for reviewing progress of the investigation and consulting the Crown Prosecution Service about whether to proceed with the investigation, charge the individual with an offence or close the case. Wherever possible that review should take place no later than four weeks after the initial evaluation meeting and, if the decision is to continue to investigate the allegation, dates for subsequent review should be set at that point.

Wherever possible the police should obtain consent from the individuals concerned to share the statements and evidence they obtain with the school for disciplinary purposes. That should be done as the investigation proceeds rather than after it is concluded.

If the police and/or CPS decide not to charge the person with an offence, or decide to administer a caution, or the person is acquitted by a Court, the police should wherever possible aim to pass all the information they have which may be relevant to a disciplinary case to the school within three working days of the decision. The school will then consider any action that it needs to take, as set out below.

The police or the CPS should inform the employer and the LADO immediately when a criminal investigation and any subsequent trial is complete or if it is decided to close an investigation without charge, or not to continue to prosecute the case after the person has been charged. The LADO will discuss with the headteacher whether any further action, including disciplinary action, is appropriate and if so how to proceed. If the person is convicted of an offence, the police should also inform the school and LADO immediately so that appropriate action can be taken, as set out below.

5.11 Case subject to action by the school

If the allegation is such that it is clear that enquiries by social care and/or investigation by the police are not necessary; or the strategy discussion or initial evaluation decides that is the case; or if a criminal investigation and any subsequent trial is complete; or that an investigation is to be closed without charge or a prosecution discontinued, the LADO should discuss appropriate action with the headteacher within three working days in consultation with the school's HR contact. In deciding on the course of action to be taken, the headteacher will consider:

- the nature and circumstances of the allegation;
- the evidence available;
- whether further enquiries are needed to enable a decision on how to proceed; and
- the available courses of action depending on whether the person involved is an employee or a volunteer.

In the case of employees, reference should be made to the school's Disciplinary Procedure in considering the available course of action.

Where further investigation is required to inform consideration of disciplinary action, the headteacher will discuss who will undertake that with the LADO. Normally the investigation should be undertaken by a senior member of the school, however, in some circumstances it may be appropriate for the disciplinary investigation to be conducted by a person who is independent of the school. The investigating officer should aim to provide a report within 10 working days. On receipt of the report, the headteacher should consult the LADO and their HR contact within two working days and decide whether a disciplinary hearing is needed. If a hearing is needed, it should be held within 15 working days.

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Where the person is a volunteer normal disciplinary procedures will not apply, although similar arrangements for conducting an internal investigation should apply. The outcome may be that the services of the person are no longer required.

A lack of criminal investigation, charge or conviction is not an adequate defence for the employee who is the subject of a disciplinary hearing. There may be elements of an allegation which suggest a breach of expected or appropriate standards of behaviour or propriety even when no criminal activity is identified. A hearing body, under these circumstances, is required to consider whether the person can be trusted to work with children in their present employment considering the available evidence.

The discussion between the LADO and the headteacher should consider any potential misconduct or gross misconduct on the part of the employee and take into account information provided by the police or children's social care and have due regard to the different standard of proof in disciplinary and criminal proceedings. In employment terms the allegations need to be considered in the context of whether a person is "unsuitable" to work with children based on the balance of probabilities, rather than beyond reasonable doubt.

The options open to the school range from taking no further action to dismissal without notice where the matter is one of gross misconduct (or a decision not to use the volunteer's services in the future). The nature and circumstances of the allegation and the evidence and information available will determine which option is most appropriate following a fair and reasonable procedure.

5.12 Action in respect of unsubstantiated allegations

Where there is insufficient evidence to substantiate an allegation the employer should consider what further action, if any, should be taken. Parents and child/young person should

- be informed as to the reasons why no further action will be taken. This should be confirmed in writing. The individual against whom the allegations were made should be informed
- and confirmation given in writing.

Where necessary the individual's line manager should consider whether to emphasise to the individual aspects of the employer's guidance for safe practice.

5.13 Action in respect of unfounded or malicious allegations

If it is immediately clear that an allegation is unfounded or malicious, the case should be resolved within one week.

Where an allegation has been determined as unfounded, consideration should be given as to whether the child and his/her family should be referred to children's social care to determine whether the child is in need of services, or may have been the subject of abusive behaviour by someone else.

Allegations that are found to have been malicious should be removed from personnel records and any that are not substantiated, are unfounded or malicious should not be referred to in employer references.

If an allegation is found to have been 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 is not a pupil. They should consult with the LADO before doing so.

Pupils that are found to have made malicious allegations are likely to have breached school behaviour policies. The school should therefore consider whether to apply an appropriate sanction, which could include temporary or permanent exclusion (as well as referral to the police if there are grounds for believing a criminal offence may have been committed).

Details of allegations that are found to have been malicious should be removed from the employee's personnel record.

5.14 Communication during and at the end of the case

The LADO will regularly monitor the progress of the case, through liaison with social care, the police and/or the school as appropriate. Reviews should be held at fortnightly or monthly intervals depending on the circumstances of the case.

The parents or carers of a child or children involved should be informed of the outcome of the case, although details of any disciplinary process will remain confidential.

6 Resignations and compromise agreements

The fact that a person tenders his/her resignation, or ceases to provide their services, must not prevent an allegation being followed up in accordance with these procedures. Every effort will be made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person refuses to cooperate with the process. Wherever possible, the person should be given a full opportunity to answer the allegation and make representations about it. Failing this or if the person refuses to cooperate, the process of recording the allegation and any supporting evidence and reaching a judgement about whether it can be regarded as substantiated on the basis of all the information available should continue. It may be difficult to reach a conclusion in those circumstances and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete but the school will aim to reach and record a conclusion wherever possible.

Compromise agreements, where the person agrees to resign and the school agrees not to pursue disciplinary action, must not be used in these cases. In any event, such an agreement will not prevent a police investigation nor can it override the statutory duty to make a referral to the Disclosure and Barring Service (DBS) where circumstances require that.

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7 Compliance with referral requirements

Schools have a legal duty to make a referral to the Disclosure and Barring Service (DBS) where there is a belief that an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child, or if a person otherwise poses a risk to a child.

Two main conditions which should be met for a referral to be made are:

1) A person has been permanently removed a person from 'regulated activity' through dismissal or permanent transfer from 'regulated activity' (or would have if the person had not left, resigned, retired or been made redundant); and
2) It is believed the person has:
   a. engaged in 'relevant conduct' (i.e. an action or inaction (neglect) that has harmed a child or put them at risk of harm);
   b. satisfied the 'harm test' (i.e. no action or inaction occurred but a risk of harm to a child still exists); or
   c. received a caution or conviction for a 'relevant offence' (a list of these offences is available on the DBS website).

A referral should not be made when an allegation is first made. An investigation and evidence gathering should be first undertaken by the person or organisation that would normally refer to the DBS. This is in order to establish if the allegation has foundation, for example as part of an internal disciplinary process. Without evidence or substance to the claims many allegations will be quickly closed down as there will be no foundation on which the DBS can proceed.

8 Returning to work

At the conclusion of a case where it has been decided that a person who has been suspended or on paid leave can return to work, the headteacher will consider how best to facilitate the return to work. Depending on the individual circumstances short-term additional support, such as a provision of a mentor or additional training, may be appropriate. The school will also consider how the person's contact with the child or children involved in the allegation can best be managed.

9 Reviewing the case

At the conclusion of a case in which an allegation is substantiated the LADO will review the circumstances of the case with the headteacher and/or chair of governors to determine whether there are any improvements to be made to the school's procedures or practice to help prevent similar events in the future, including those arising from any decision to suspend.

10 Record-keeping

A clear and comprehensive summary of allegations made, details of how the allegation was followed up and resolved and a note of any action taken and decisions reached must be made. This should be retained on a person's confidential personnel file, unless the allegation has been deemed to be malicious, and made available to the person concerned upon request.

The purpose of the record is to enable accurate information to be given in response to any future reference request and to provide clarification in cases where a future DBS

certificate of disclosure reveals information from the police about an allegation that did not result in a criminal conviction. It may also help to prevent unnecessary further investigation if an allegation resurfaces after a period of time.

The records will be retained at least until the person reaches normal retirement age or for a period of 10 years from the date of allegation if that is longer.

Details of the expiry of warnings and the withdrawal of disciplinary records are set out in the school's Disciplinary Procedure.

11 References

Cases in which an allegation was proven to be false, unsubstantiated, unfounded 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 a reference.

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Appendix 1 – Summary of procedure for managing allegations of abuse

