



SOUTHFIELDS ACADEMY

PROCEDURES FOR DEALING
WITH ALLEGATIONS AGAINST STAFF
OF CHILD ABUSE

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APPENDIX A

Definition of Child Abuse

APPENDIX B

Academy Threshold for Child Protection Referral

Terminology:

LADO:

Local Authority Designated Officer
Telephone number: 0208 871 7208
LADO@wandsworth.gov.uk

1. INTRODUCTION

The safeguarding of children and young people who attend educational establishments is a key function for schools. This is established in legislation for each LA within Section 175 of the Education Act 2002. The need for staff to be aware of their role and responsibilities in this area may, on occasions, include the need to know how to deal with allegations against paid staff or volunteers.

It is recognised that through working closely with children and young people, staff and volunteers are potentially vulnerable to accusations of abuse and allegations made by students and parents. Experience has found that some of these will be proved to be false, some will be unfounded, whilst others may be malicious and/or mistaken. On the other hand, however, some allegations will be true.

This document reflects the Academy's dual commitment to protect children from abuse and advises managers about how to deal with allegations against staff whilst also seeking to protect employees from unfounded allegations.

Staff conducting investigations and all others involved in this process should consider this work as a top priority. This procedure also sets out the process and timescales within which certain decisions have to be taken.

This policy has been drawn up with the aim of promoting good practice, based on maintaining good relationships in a positive environment, with appropriate support being provided to anyone subject of an allegation. It sets out clearly the steps that should be taken when responding to allegations that employees have abused children for whom they are responsible, or for whom they care, and is based on Keeping Children Safe in Education July 2015.

These procedures apply to all Academy staff and Board of Trustees. They should be read in conjunction with the relevant codes on 'The Use of Control and Restraint by Staff', 'Conduct', 'Disciplinary' and 'Whistleblowing'.

There are separate policies and procedures for dealing with suspected child abuse:-

- Child Protection: Working Together to Safeguard Children 2015
- Keeping Children Safe in Education September 2020
- School Behaviour and Discipline Policy

These procedures do not supersede or amend the Board of Trustees' responsibilities as laid out in these documents.

2. WHAT IS A CHILD PROTECTION ALLEGATION?

Child abuse is defined within four categories in England - physical, sexual, emotional abuse and neglect.

There are a number of types of allegations against staff which need to be considered in conjunction with these guidelines:

- A child or young person on the roll of the Academy may make an allegation that they have been harmed by someone associated with that establishment.
- If it is discovered that the member of staff working with children is said to be presently or previously involved in child abuse by:
 - i. Possibly having committed a criminal offence against or related to a child;
 - ii. Behaved towards a child or children in a way that he/she would post a risk of harm to children
- When allegations arise in connection with the person's own children or other children they are involved with.

Allegations may come from students, parents, the public, colleagues or other agencies. They may involve a present member of staff, visitor or another student, and either occur on the premises or outside.

A full definition of child abuse in relation to school employees is found at **Appendix A**.

It is acknowledged that there may be occasions when teachers need to touch students, for example to restrain them so they do not hurt themselves or anyone else. However, teachers are prohibited by law from applying more than specified types and levels of restraint to those children for whom they are professionally responsible. Further guidance can be found in the Policy on the Positive Handling of Students.

Volunteers who work with children are expected to maintain standards of conduct comparable to those prescribed for colleagues in paid employment.

2.1 Allegations against staff in their personal lives

On occasions staff who are parents may be found to have abused their own children. This brings into question an individual's appropriateness to work with children, so if an allegation about abuse or neglect is made about conduct outside the work role the general principles in these procedures apply.

Any investigation about a member of staff's home circumstances will be undertaken by the authority where they live and only reported to their employing authority if it brings into question whether they should work with children.

2.2 Historical abuse allegations

On occasions adults make allegations about staff members who, they say, abused them when they were children and attending the educational establishment. The Academy must deal with these allegations to as high a standard as a response to current abuse. This is because:

- There is a significant possibility that a person who abused a child/ren in the past may still be doing so.
- Criminal prosecution remains a possibility if there is felt to be sufficient evidence.

2.3 Definitions of Outcomes of Allegations of Abuse

- **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 prove or disprove the allegation. The term therefore does not imply guilt or innocence.

3. INITIAL ACTION WHEN A CHILD MAKES AN ALLEGATION

3.1 What to do when a child first starts to disclose possible abuse

If a child talks about possible child abuse, it may be tempting to try to help them tell their story but this may unwittingly affect how the matter is subsequently dealt with. All staff, including those who may be in the room when the child is speaking, and who may thereby be a witness to an account, should be aware of the following guidance:

- Listen to the child
- Don't interrupt a child when they are recalling significant events
- Avoid asking questions, particularly leading questions which may try to suggest the answer to the child (for example 'what did X do?' should be replaced with 'Tell me what happened')
- Carefully note information in the child's own words and, where possible, verbatim, i.e. timing, setting, who was present, what was said.
- Sign and date the written record
- Record all subsequent action

- Take account of the child’s age and level of understanding
- Don't try to determine the validity of the accusation
- Don't promise the child confidentiality
- Tell them there may be a need to pass on information in order to protect them or other children
- Reassure them that the information will only be passed on a “need to know” basis. This is in order to:
 - Protect them
 - Facilitate enquiries
 - Manage disciplinary / complaints aspects
 - Protect any rights of the alleged abuser

Hearing information of this nature can be extremely difficult, and is likely to feel worse when it concerns a colleague. It is extremely important at this stage that nothing is done that may unwittingly prejudice the outcome of any enquiry. This can be achieved by:

- Keeping an open and enquiring mind
- Acting in a manner and speed commensurate with concern
- Acting quickly even if it is not obvious that the child has suffered significant harm
- Noting that police have a duty to investigate criminal offences against children
- Not interfering with evidence, for example by interviewing the child(ren) or asking leading questions
- Not asking a child to repeat an account
- Not making assumptions or interpretations
- Not making suggestions as to possible alternative explanations
- Not investigating the allegation
- Not interviewing or discussing the allegation with any members of staff

3.2 What to do with Information about an allegation:

The first priority is to establish whether the child or other children may have suffered, or are at risk of suffering, significant harm and/or are in need of protection. A member of staff receiving an allegation should immediately advise the Principal/Headteacher. If it is an allegation against the Principal/Headteacher the Chair of the Board of Trustees should be informed.

If urgent action is required then a referral should immediately be made to Children’s Services, with arrangements for appropriate medical advice to be sought if necessary. (See section 3.3)

Any allegation should be recorded and the report should include the timing and date of the allegation along with a clear name and signature of the person reporting the allegation.

The next step is for the Principal/Headteacher (or Chair of the Board of Trustees if the allegation is against a Headteacher) to make initial enquiries about the allegation. Although common sense can help to determine if a matter requires a formal referral, it is important to introduce an element of objectivity into the decision as to what is or is not referred in case this is challenged later. The grid in Appendix B will assist with this.

To come to any conclusion about formal referral the Principal/Headteacher/ Chair of the Board of Trustees should simply establish:

- That an allegation has been made
- The general nature of the allegation
- When and where the incident is alleged to have occurred
- Who was involved
- Any other persons present

The Principal/Headteacher or Chair of the Board of Trustees will discuss the allegation with the Operational Safeguarding Officer and the Director of HR.

If the Principal/Headteacher or Chair of the Board of Trustees finds that the allegation may have any substance and represents a child protection issue, the allegation must be reported to Wandsworth LADO.

This contact will not only ensure that the Principal/Headteacher or Chair of the Board of Trustees receives impartial advice, but also that they are not left unsupported, that full and accurate records are kept of all allegations and the action taken is appropriate to the circumstances.

No referral to the LADO will be necessary where the allegation is:

- Reasonable force to restrain a pupil (in accordance with the Policy and Procedures on The Use of Control and Restraint by Staff)
- Demonstrably false, that is without any possible evidence of foundation (for example the member of staff was not present on the day in question)
- Inappropriate behaviour/poor practice (which poses no threat of harm to students) which needs to be considered under disciplinary procedures

In addition, some cases may meet the criteria of a child protection allegation, but not warrant consideration of a police investigation or enquiries by the Local Authority Children's Social Care services, such cases will be dealt with internally in accordance with the Academy's disciplinary procedures.

The grid in **Appendix B** will help the Principal/Headteacher and Chair of the Board of Trustees to determine whether an allegation fits any of the above criteria.

It is absolutely vital that if a matter is not referred on to the LADO then the reasons for this are clearly recorded by the Principal/Headteacher or Chair of the Board of Trustees. Records may be needed if the decision not to proceed is challenged.

If a member of staff believes that allegations or suspicions which have been reported are not being investigated properly, they should refer the matter to the Principal/Headteacher or Chair of the Board of Trustees.

3.3 What to do if Medical attention seems necessary:

If the child may have sustained a physical injury as a result of the allegation the school should immediately advise social services who will arrange for a medical examination to be conducted and will seek consent from the person with parental responsibility for this to take place.

If the child has not sustained an injury but nevertheless shows signs of being unwell then the school, on contacting the person with parental responsibility to say that the allegations has been made, should advise them to take the child to their doctor. Enquiries as to whether this was done should be made the following day.

3.4 Who is Responsible for doing what once an allegation has been passed on?

The Academy Welfare Officer will assume responsibility for the welfare of the child(ren) involved unless the child has a Social Worker, in which case the Academy Welfare Officer will communicate with the Social Worker to ensure that the child's needs are met.

The Board of Trustees is responsible for deciding what sanction to apply following a disciplinary hearing, if held, and should not be involved in the investigation process, or any decisions about suspension of staff, except in the case of an allegation against the Principal/Headteacher.

The Principal/Headteacher should tell the accused member of staff about the allegation as soon as possible unless this may prejudice any aspect of the investigation, for example criminal enquiries.

The Principal/Headteacher and Director of Human Resources will decide how and when the parents of a child who has allegedly been abused should be informed. The parents should be asked to ensure that they themselves and the child do not discuss the case with anyone else within the school community.

4. **OUTCOME OF INITIAL CONSIDERATION**

The Principal/Headteacher/ Chair of the Board of Trustees, in discussion with the Director of HR, may decide one of three options:

- the information available indicates that there is no substance to the matter,
- the matter should be subject to disciplinary investigation
- the matter should be referred formally to LADO.

4.1 Action following non-pursuit of allegations:

If it is decided there is no substance to the allegation the member of staff will be informed orally and in writing that there will be no further action under the Child Protection or disciplinary procedures. Consideration should be given to any support the member of staff may need to resume his/her normal duties.

The parents must be informed in writing, in broad terms, of the outcome of the allegation.

The result of any disciplinary action is of course confidential.

Where an allegation is demonstrably false, the case will be referred to the Operational Safeguarding Officer and the Academy Welfare Officer.

4.2 Disciplinary Investigation

If it appears that the allegation relates to inappropriate behaviour or poor practice by a member of staff but falls short of a child protection matter, the matter should be pursued according to the disciplinary, rather than child protection, procedure. (See Section 7). Alternatively, if the matter is considered to be one of poor performance it will be dealt with under the procedure for dealing with cases of unsatisfactory performance.

4.3 When to Refer to the LADO:

If in doubt refer

Please see Appendix B.

A formal referral should be made when:

- The alleged behaviour might constitute a criminal offence
- There might be issues of concern regarding the safety and welfare of children

Referral to the LADO will initiate a 'ASV discussion' about the way to proceed and should result in the holding of a ASV Meeting (see next section)

The LADO will be responsible for the referral to the Police Child Protection Unit.

4.4 Allegation against Staff and Volunteers Meeting (ASV):

An ASV meeting is a multi agency meeting convened to agree how the matter will be dealt with. It must be arranged as soon as possible and within 3 working days of receipt of the allegation against a member of staff.

The ASV meeting will be held in accordance with the statutory guidance Keeping Children Safe in Education September 2020 and Working Together to Safeguard Children 2015.

Those taking part in an ASV meeting in relation to an allegation against a member of staff should include the following officers:

A member of the LADO

A member of the Police Child Protection Unit

Social Worker

Principal/Headteacher or representative (Chair of the Academy Trust if the allegation is against the Principal/Headteacher)

The Director of Human Resources

Academy Welfare Officer

Those responsible for the regulation and inspection of the unit, if applicable.
Health Authority representative if sexual abuse is alleged

If the child has been placed in the establishment by another authority a representative of the placing authority should also be invited to attend.

The purpose of the meeting is to share information in relation to the allegations and to plan the investigation into the allegations. The meeting will take account of any information the Academy can provide about the circumstances or context of the allegation and consider whether:

- The child or other children are at risk and therefore a joint Police/ Children's Services investigation under S47 of the Children Act 1989 is necessary,
- It is necessary to review any previous allegations made against the member of staff
- It is necessary to interview any other children (including ex-students or students of any other schools) and other school staff,
- Agency and individual responsibilities for agreed actions, including the timings of such actions,
- Decide who, if anyone, should be informed of the allegation
- To make any recommendation about the need for suspension on the basis of all the information (see below).

The ASV meeting will take into account the welfare of the employee against whom an allegation has been made and consider the available evidence in determining the outcome of the meeting.

There are four possible outcomes, including three types of investigation and the ASV meeting will decide which of these options is the most appropriate:

- No formal investigation
- Investigation by the LADO under local Child Protection procedures
- Investigation by the Police into possible criminal offences
- Investigation under the Disciplinary procedure

Where the meeting determines that there should be an investigation, the recommendation needs to be made whether to suspend the member of staff if this has not already happened and whether there are any constraints/limitations on the information that can be given to the individual. The ASV meeting cannot insist that the member of staff be suspended: it can merely recommend.

If a formal investigation by the LADO is considered necessary they will appoint a Social Worker if the child does not already have one. Children's Services will arrange a second ASV Meeting, normally within 10 working days of the first ASV meeting, to review the findings of the child protection investigation and make recommendations about future action.

An investigation by the LADO and/ or Police does not preclude a decision to undertake a separate disciplinary investigation.

A record of the decisions taken by the ASV meeting should be provided by the agency chairing, usually the LADO, to all agencies attending the meeting, ideally at the end of the meeting.

4.5 Unsubstantiated Allegations:

Where it is concluded that there is insufficient evidence to determine whether the allegation is substantiated, the Chair of the ASV meeting will prepare a report to the effect that the allegation will not be pursued as a child protection investigation.

It should be noted that unsubstantiated child protection allegations do not necessarily mean that nothing happened, merely that there was insufficient evidence to prove it, which may be due to factors such as a child's age or limited communication skills.

However, in cases where a member of staff's conduct was not appropriate or indicative of poor practice, consideration should always be given as to whether the disciplinary procedures are necessary to address the identified concerns.

4.6 Telling the Member of Staff:

Once the decision has been taken to initiate an enquiry the member of staff should be advised of the allegation unless this would jeopardise some element of the

investigation, such as criminal enquiries, when advice from the Police Child Protection Unit should be sought.

The member of staff should be told:

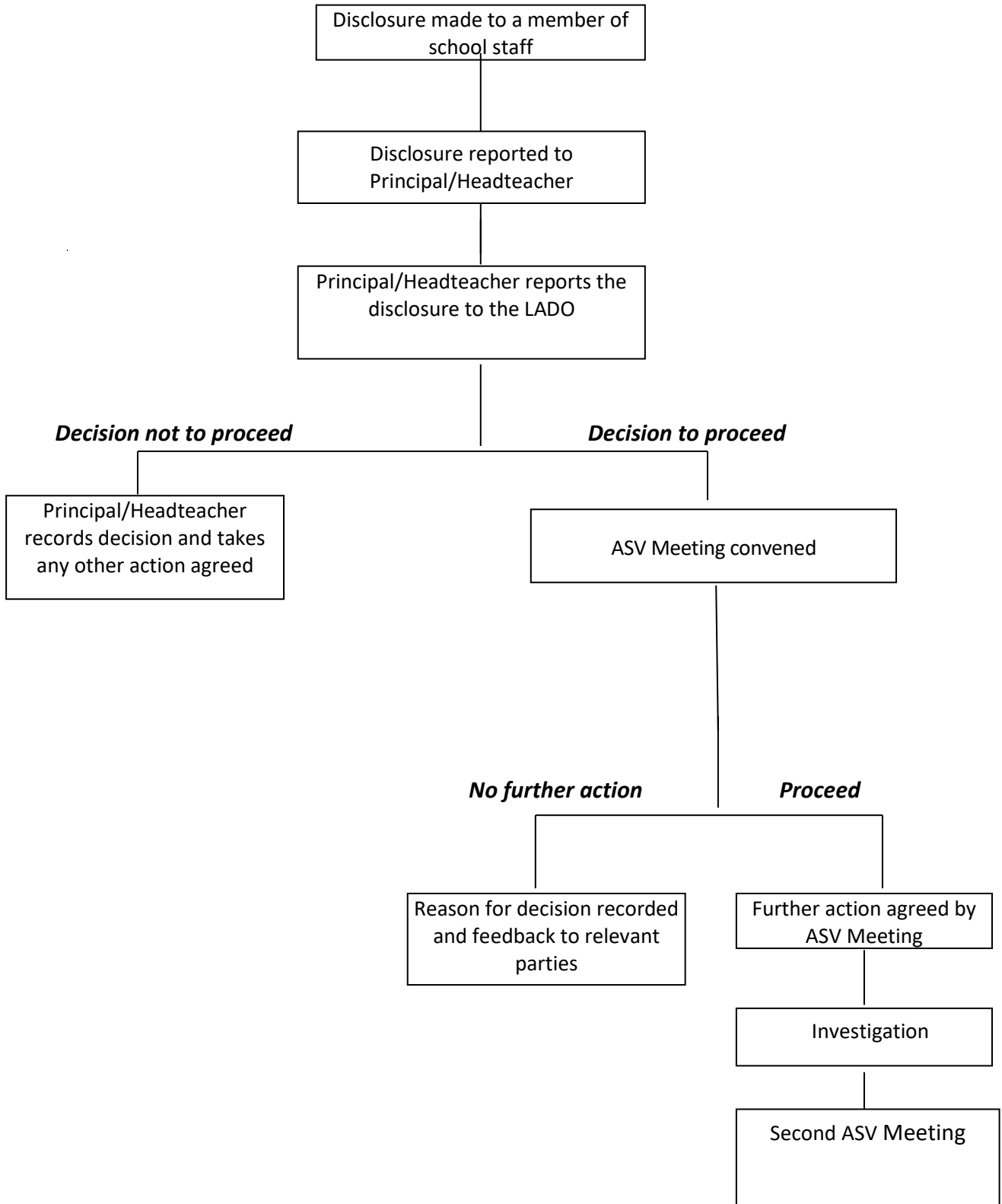
- The nature of the allegation (in broad terms)
- How enquiries will be undertaken
- Possible outcomes. This could include no further action, departmental disciplinary procedures or that the police will be carrying out a criminal investigation.

Members of staff should always be encouraged to seek support. Good practice suggests that the Academy should agree a contact person who will ensure that the member of staff is kept informed of the timescales of the investigation.

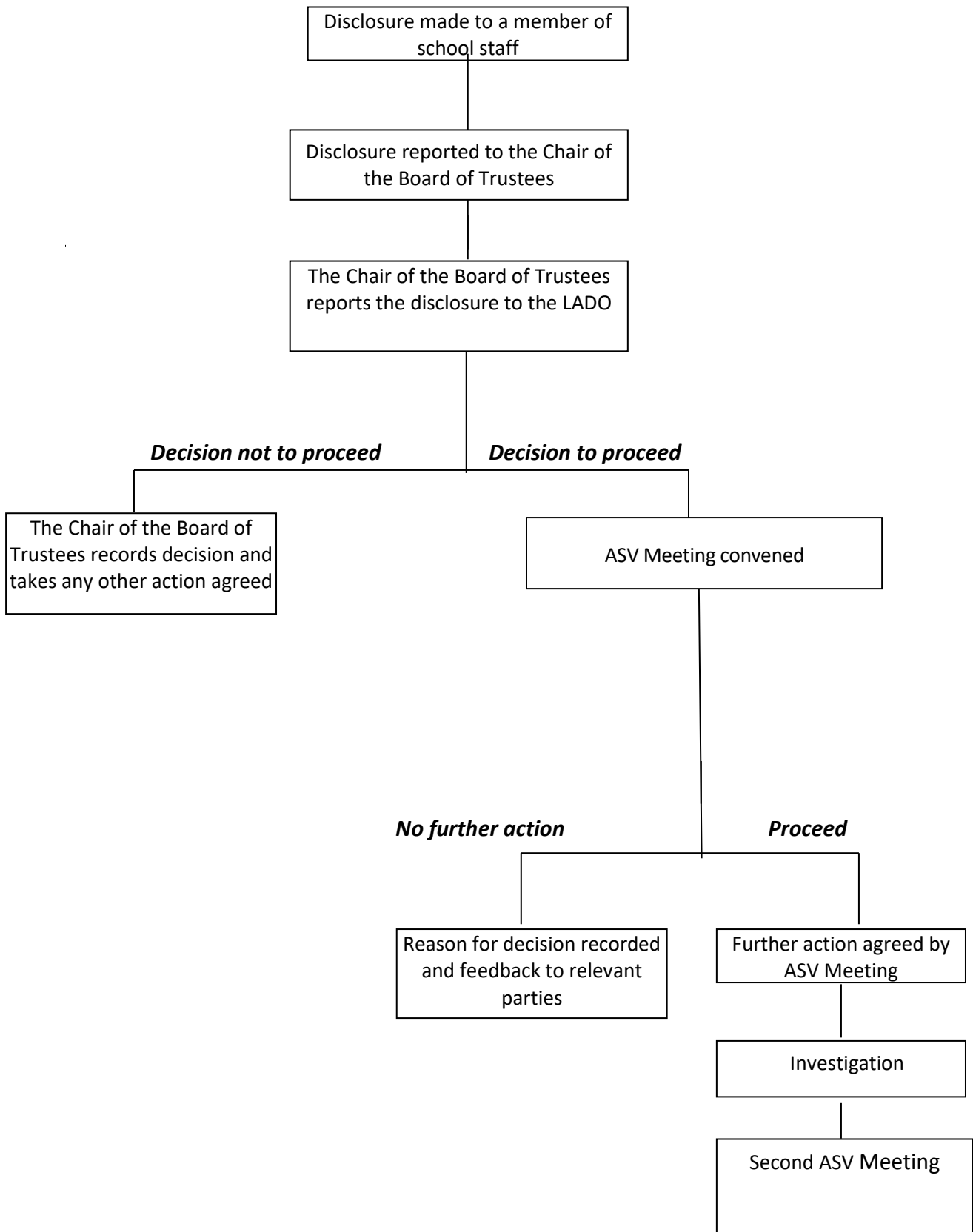
5. THE PROCESS OF A CHILD PROTECTION INVESTIGATION

The following flowchart details the process of an investigation.

Referral procedures for when a child/young person discloses to a member of school staff an allegation of abuse by a member of school staff other than the Principal/Headteacher.



Referral procedures for when a child/young person discloses to a member of school staff an allegation of abuse by the Principal/Headteacher.



Please Note: the above flow charts refer to situations where a child/young person has disclosed possible abuse to a member of staff. Allegations are also made by parents, other members of Academy staff, other children/young people in the Academy etc.

It is vital that full and accurate records are kept of the action and decisions taken in respect of the handling of the allegation the Academy should ensure that they keep complete records about what they did and why. Accurate record keeping is of increasing importance and will be required by Ofsted inspections.

6. SUSPENSION

6.1 Suspension is:

- Decided by the Principal/Headteacher/Chair of the Board of Trustees
- Cannot be insisted upon by the LADO or the Police
- Should not be automatic
- Should not be taken without good reason
- Is a neutral act and not disciplinary action
- Is on normal pay

6.2 Suspension may properly occur where:

- A child or children is/are at risk
- The allegation is so serious that dismissal for gross misconduct is possible
- Suspension is necessary to allow the conduct of the investigation to proceed unimpeded
- Police are investigating the allegations

Any investigation by the Police and/or the LADO will take priority over the Academy's internal investigation and it may be necessary to hold the internal investigation in abeyance while the independent child protection investigation is carried out. Where, in exceptional circumstances, the Academy decides to pursue an internal investigation before the completion of a Police investigation, the agreement of the Police must be sought before any steps are taken.

Staff should give Police every assistance with their enquiries and maintain confidentiality. Police should not normally conduct interviews on school premises and should make appointments for interviews to be at reasonable times. Subject to legal constraints, any evidence gathered in the course of a police enquiry about allegations against staff may be made available to any subsequent disciplinary investigation.

6.3 Alternatives to Suspension:

It is important to note that suspension can be a traumatic experience for:

- The individual, and their family
- The child and their family
- Students at the school
- Staff

It should be noted that any hasty, ill-judged decisions to suspend immediately could have a very detrimental effect on a career. It is important to bear in mind the welfare of the employee against whom an allegation has been made, balancing the interests of the

investigation with the need to minimise the stress to the individual concerned. To this end, it may be appropriate to consider other action to avoid suspension. Possible examples of this are:

- Undertaking different duties which do not involve direct contact with the individual child or other children
- Providing a classroom assistant or other colleague to be present throughout contact time
- Leave of absence

If the person against whom an allegation is made is not based in the school but may, for example have visited the school in their professional capacity, then the alternative duties may include:

- Undertaking office duty
- Undertaking non contact tasks only

6.4 Suspension Interview

If the employee is to be suspended, this should be done wherever possible in a face to face interview.

When called to an interview where suspension is the likely outcome, the member of staff should be advised to seek the advice and assistance of his/her trade union. A person who is not a member of a trade union may be supported by a work colleague.

The member of staff should be informed at the outset of the interview that an allegation has been made and that, at the conclusion of the interview, suspension might occur. It should be made clear, however, that the initial interview is not a formal disciplinary hearing but is for the purpose of raising a serious matter which may lead to suspension and further investigation.

The member of staff should be given as much information, including reasons for any proposed suspension, as is consistent with not interfering with an investigation about the allegation. This meeting is not concerned with an examination of the evidence, but is an opportunity for the member of staff to make representations concerning any possible suspension. The member of staff should be given an opportunity to make such representations after the information has been given and the reasons for any proposed suspension explained. A brief adjournment should be offered to the member of staff prior to response.

If, as a result of the interview, it is considered that suspension is necessary along with a full investigation of the allegation, the individual should be advised that he/she is suspended from duty. Written confirmation of the suspension should be sent to the individual within one working day, detailing the reasons for the suspension.

6.5 Communication of the Suspension

The Chair of the Board of Trustees must be informed of the suspension. No details of the allegations should be provided as this may prejudice future proceedings.

Where the Principal/Headteacher has been suspended, the implications for the management of the school will need to be considered, including the arrangements for an Acting Principal/Headteacher.

Some senior teachers in the school may need to know of the reason for the suspension, but they should be informed only insofar as is necessary in the particular circumstances. The Principal/Headteacher/Acting Headteacher should take a decision on informing other staff colleagues in the Academy of the suspension.

The Principal/Headteacher/Acting Headteacher should discuss with the Chair of the Board of Trustees the extent to which it is necessary to make a statement to the parents of children in the school, having considered the need to avoid unwelcome publicity. It is advisable that the Principal/Headteacher and Chair of the Board of Trustees consult with the Director of HR with regard to writing statements to parents.

In certain circumstances it may be necessary for the Principal/ Headteacher/Acting Headteacher in conjunction with the Chair of the Board of Trustees, to provide immediate reassurance to parents and children in the Academy. There may also be a need for information to be provided during the course of an investigation to parents, children and colleagues. Advice regarding this should be sought from the Director of HR and where relevant and appropriate from the LADO or the Police.

6.6 Support for suspended staff

The member of staff should be advised at the earliest possible opportunity to seek advice from their trade union.

The member of staff should be offered counselling by the LA.

The member of staff should be regularly contacted by a designated senior member of staff for support and information purposes.

6.7 Support for others concerned

Consideration should also be given to the nature of support it is possible to provide for:

- The child making the allegation
- Their parents
- Other staff and students

In the case of particularly traumatic situations, where the allegation may even attract media attention, this support may be in many different forms. This can include 'surgeries' held at the school for children or parents, independent counsellors or LA representatives attending

staff meetings or other specially convened meetings to allow staff to discuss their views and concerns.

7. GUIDANCE ON DISCIPLINARY INVESTIGATIVE PROCEDURES

(Please refer to the Guidelines on the Conduct of Disciplinary Investigations for further guidance).

7.1 The Aim of the Investigation

Is to:

- Obtain, as far as possible, a fair and balanced picture, which should be reflected in an accurate written record
- Neither prove nor disprove an allegation
- Establish the evidence as a preliminary to considering the appropriateness of disciplinary action

All interviews should be formal and be recorded in detail. They should be signed and dated.

The circumstances of each allegation will vary. It is not anticipated that the Academy will be involved with interviewing the child: this will always be carried out by the Police and the LADO under the joint investigation procedures of the London Child Protection Procedures. If there is no formal investigative interview with the child, the notes of the original disclosure will be used in the compilation of the Investigation report.

7.2 Confidentiality

Allegations and action taken must be treated as confidential and details must not be disclosed except to those people specifically mentioned and identified by the Investigating Officer.

It is important to inform individuals being interviewed as part of the investigation that their interview can be kept confidential to the investigation only. The evidence they provide may be made available during any subsequent disciplinary proceedings and they may be called as a witness to this hearing if their evidence is considered pertinent to the case being heard.

Breaches of confidentiality may be subject to disciplinary investigation.

7.3 Case Monitoring

The Director of HR will monitor the progress of the case by having regular liaison discussions as appropriate.

The Police should inform the LADO/Director of HR immediately if they decide to close an investigation or not to prosecute the accused member of staff.

7.4 The Disciplinary Hearing

The panel at the disciplinary hearing has the responsibility for satisfying themselves that the investigation has been properly conducted and has considered all relevant factors and that the evidence suggests, on the balance of probabilities, that the alleged incident(s) took place.

If new facts emerge at this stage, the hearing must be adjourned and the new information reported back to the LADO and the Co-ordinator who chaired the investigative ASV meetings.

7.5 Standard of Proof/Balance of Probabilities

The standard of proof required is not that required by the criminal courts, so the fact that either a court case is pending in relation to the alleged offence or the Crown Prosecution Service has decided not to prosecute should not necessarily delay or affect the decision in relation to disciplinary proceedings.

However, the police have to give their agreement that the disciplinary investigation can proceed.

The test to be applied to the alleged incidents is that of the Balance of Probabilities. If after hearing all the evidence, the panel is satisfied that the alleged incident(s) took place, they have the responsibility for determining what sanctions to apply in accordance with the Disciplinary Code.

The decision, together with the right of appeal, will be confirmed in writing to the member of staff in accordance with the Disciplinary Code.

8. ACTION AFTER THE DISCIPLINARY HEARING

If no disciplinary action is to be taken or the outcome of the disciplinary hearing is action short of dismissal, the suspension (if imposed) should be lifted immediately.

Consideration needs to be given to any support needed in order to facilitate the member of staff's return to work.

8.1 Records

Information gathered during the course of an investigation should not be shared or discussed with anyone other than the Investigating Officer and appropriate advisers, for example the Director of HR, Social Worker, the LADO and the Academy Welfare Officer.

If the decision made is that formal disciplinary action is to be taken, the member of staff affected shall be given copies of all documentation to be presented at the hearing at the relevant stage of the disciplinary proceedings.

9. RESIGNATION DURING INVESTIGATION

On occasions, where a member of staff is the subject of a disciplinary investigation concerning allegations of child abuse, they may resign before the disciplinary process is completed. In this situation the Principal/ Headteacher must inform the member of staff that consideration will be given as to whether the investigation should be completed. They should also know that the employer has a statutory duty to report the case to the National College for Teaching and Leadership if the allegations are substantiated. This may result in the individual being barred or having certain conditions imposed on them regarding any future employment which involves regular contact with children and young people.

10. REFERRAL TO THE TEACHERS REGULATION AGENCY

The Secretary of State's powers are contained in Section 142 of the Education Act 2002.

The Academy is required to provide a report to the Disclosure and Barring Service via the Teachers Regulation Agency when it ceases to use a person's services, or they are dismissed or resign before a disciplinary process is completed providing the reason is that:

- they are unsuitable to work with children,
- as a result of misconduct,
- because of a medical condition that raises the possibility of risk to the welfare or safety of children

A compromise agreement does not override the statutory duty to report the matter. A compromise agreement which prevents the Academy from making a referral to the Disclosure and Barring Service via the Teachers Regulation Agency when the referral criteria are met would likely result in a criminal offence being committed as the Academy would not be complying with its legal duty to make the referral.

These reporting arrangements apply to anyone who works in a school, including volunteers, regardless of what they do.

They also apply to staff convicted of a criminal offence against children working outside the work setting, when notification may be made by the Police (Annex C of 'Child Protection: Procedures for Barring or Restricting people working with children in Education').

The person reported will be notified by the Teachers Regulation Agency and invited to make representations before a final decision is made. If a person's name is listed there are limited circumstances in which a bar or restriction can be reviewed through appeal to the Secretary of State or the Care Standards Tribunal.

Anyone subject to a direction under Section 142 of the 2002 Act on the grounds that they are unsuitable to work with children is also disqualified from working with children. 'Work' includes unpaid employment, employed under contract, those undertaking work experience and volunteers.

11. VOLUNTEERS

Allegations against volunteers should be dealt with in a way that is consistent with these procedures. Any organisation using the volunteers should be informed of the allegation and the outcome of the investigation providing this is consistent with confidentiality and does not compromise the investigation. Legal advice about this aspect should be sought before action is taken.

12. MEDIA

If Media interest is awakened, for example if they are made aware of the situation by parents or students, it is very important for all concerned that this is managed in as sensitive and planned a way as possible. This is in order to avoid adding to the problems for the accused member of staff or hindering the investigation.

It may be appropriate to contact the Press and Publicity Section and the Principal/ Headteacher/ Chair of the Academy Trust will usually be involved in the drafting of press releases and letters to parents informing them of developments.

Where appropriate, staff and Trustees will need to be briefed to avoid media coverage. It is important to note that staff are protected by right to privacy under the Human Rights Act.

It may be helpful to prepare a written statement so that everyone is given consistent information about the allegation and action taken.

Where necessary, immediate colleagues should be informed by the Principal/ Headteacher that the member of staff will not be in school for the time being and that no further information is available.

Definitions of Abuse

Working Together provides clear definitions of the four categories of abuse:

- Physical Abuse - This may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child
- Emotional Abuse - The persistent emotional ill treatment of a child such as to cause severe and persistent adverse effects on the child's emotional development
- Sexual Abuse - Involves forcing or enticing a child or young person to take part in sexual activities, whether or not the child is aware of what is happening. The activities may involve physical contact, including penetrative or non penetrative acts.....
- Neglect - The persistent failure to meet a child's basic physical and psychological needs, likely to result in the serious impairment of the child's health or development....

Under the Children Act 1989 s31(9):

- Harm - means ill treatment or the impairment of health or development;
- Development - means physical, intellectual, emotional, social or behavioural development;
- Health - means physical or mental health
- Ill treatment - includes sexual abuse and forms of ill treatment which are not physical

Significant Harm

"There are no absolute criteria on which to rely when judging what constitutes significant harm. Consideration of the severity of ill treatment may include the degree and extent of physical harm, the duration and frequency of abuse and neglect and the extent of premeditation, degree of threat and coercion, ..." (*Working together to Safeguard Children, DOH 1999*)

Assault

Any allegation of assault on a pupil, made against a member of staff, should result in a child protection referral even though a very minor assault may not meet the threshold of significant harm. It is therefore important to understand what constitutes an assault in criminal law.

Assault and battery are, strictly speaking, two separate things. The term 'assault' however is often used to describe both acts and this can lead to confusion.

A person is guilty of assault if he/she intentionally or recklessly causes another person to fear the immediate application to him/herself of unlawful force. To commit the offence of assault, it is therefore not necessary for any contact to be made. It is enough that the victim fears the immediate application of unlawful force.

It must be shown that the accused:

- committed an act which caused fear of immediate unlawful violence (known as the '*actus reus*'); and
- intended to cause fear of immediate unlawful violence, or was reckless as to that consequence (known as the '*mens rea*').

Words, both oral and written, can amount to an assault provided they are accompanied by an act, which can be minimal and the required mens rea, as shown above.

'Immediate' has a somewhat elastic meaning, but essentially means 'in the immediate future'.

A person is guilty of battery if he/she intentionally or recklessly applies unlawful force to another person.

The term 'battery' or the application of unlawful force, creates a misleading impression, as a very small degree of physical contact will be enough. That force can be applied directly or indirectly. For example, a punch aimed at a woman that doesn't hit her but causes her to drop and injure the child she is carrying, is an assault against the woman and a battery against the child.

It will be lawful for a person to use reasonable force in self defence or in the prevention of crime. Parents and others in *loco parentis* of a child are also entitled to use reasonable force in controlling the behaviour of that child. The School Standards and Framework Act 1998, however, outlaws corporal punishment in all British schools, although staff may use reasonable force in restraining violent or disruptive pupils (Education Act 1996, s.550A)

Indecent Assault

An indecent assault is simply an assault committed in circumstances of indecency. There has to be an assault, therefore, for the offence to be committed.

ALLEGATIONS AGAINST STAFF
ACADEMY THRESHOLD FOR CHILD PROTECTION REFERRAL

Introductory notes:

- (i) The following table has been produced to assist decision-making when considering whether to make a child protection referral. This should be used in conjunction with DfE standards, ACPC procedures and the attached guidance. Its purpose is to ensure that wherever possible, the initial category of the allegation is ascribed on the basis of the evidence presented, rather than upon assumption or preconception.
- (ii) The decision-making process should not preclude a 'child in need' referral at any stage.
- (iii) All concerns raised about staff should include consideration of their conduct, whether in relation to any necessary disciplinary action and/or with regard to reducing their vulnerability to further allegations. This may involve an action plan for other staff too.

CATEGORY	DEFINITION	EXAMPLES	ACTION	SAFEGUARDS
1. Apparent Corroboration	Where an allegation or concern is accompanied by actual or circumstantial evidence.	<p>A child may have a visible injury.</p> <p>The incident may have been witnessed.</p> <p>The member of staff may behave in a way that is consistent with the allegation.</p>	A Child Protection referral must be made to the LADO or the Police. Local ACPC Procedures must be followed.	The referral to the LADO or Police must be followed in writing.

CATEGORY	DEFINITION	EXAMPLES	ACTION	SAFEGUARDS
2. Possible	Where there are indications that an abusive incident might have taken place, or there is little evidence to disprove a child's allegations.	Where a child's allegations might be supported by other information, or where it is a matter of one word against another.	A Child Protection referral must be made to the LADO or the Police. Local ACPC procedures must be followed.	The referral to the LADO or Police must be followed in writing.
3. Unlikely	The alleged incident most probably did not take place.	Where circumstantial evidence appears incompatible with the allegation.	Only clarification of the specific allegation or concern should be sought. No attempt should be made to investigate the matter at this stage. Inform the LADO, the Operational Safeguarding Officer and the Academy Welfare Officer.	The Academy's knowledge of both the child and member of staff concerned will be invaluable – however , the view of the LADO will contribute further objectivity and help to secure consistency and appropriateness of response.
4. Demonstrably false	It is known without a doubt that an allegation is untrue. This position requires strong evidence and must not be based on preconception about the	The alleged perpetrator was known not to be anywhere in the vicinity and the child is not confused in terms of time, place or person.	Internal enquiries can be undertaken by the school. The child's motives or misunderstandings should be addressed – involving those with parental responsibility.	The Operational Safeguarding Officer and the Academy Welfare Officer must receive written notification of the allegation, the evidence and how the matter was resolved. Consideration should always be

	child or member of staff concerned.			given to the possibility that the child may be displacing abuse experienced elsewhere.
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