



Dorset Trade Skills (SW) Limited

Allegations Against Staff

July 2019

Review date July 2020

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# **DEALING WITH ALLEGATIONS OF ABUSE AGAINST MEMBERS OF STAFF AND VOLUNTEERS**

## **1 INTRODUCTION**

1.1 All children and adults have a fundamental right to be protected from harm.

1.2 The Advisory Group of Dorset Trade Skills (SW) Limited have a duty to safeguard and promote the welfare of children and create and maintain a safe learning environment (section 175/157 of the Education Act 2002). Schools should identify where there are child welfare concerns and take action to address them, in partnership with other organisations where appropriate, and in accordance with local inter-agency procedures.

1.3 Centre staff have a positive role to play in child protection, as their position often allows them to be able to observe outward signs of abuse and changes of behaviour in children.

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

1.5 To fulfil its commitment to the welfare of children, Dorset Trade Skills (SW) Limited has a procedure for dealing with allegations of abuse against members of staff and volunteers.

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

1.7 In the event that a member of staff does not wish to report an allegation directly, or they have a general concern about malpractice within Dorset Trade Skills (SW) Limited, reference can also be made to the Dorset Trade Skills (SW) Limited Whistle blowing policy.

1.8 The procedure complies with the framework for managing cases of allegations of abuse against people who work with children, as set out in relevant guidance and in the local inter-agency procedures. The procedure has been agreed following consultation with the recognised trade unions.

1.9 The policy should be read in conjunction with the Whistleblowing Policy and Code of Conduct.

## 2 SCOPE

2.1 The procedure applies to all adults employed by the Centre or all adults volunteering in the Centre.

2.2 The procedure is recommended to all school/Centre Governing Bodies for adoption. (In the case of school federations, it is recommended to the federation's Governing Body).

**2.3 The Local Authority will not accept liability for any actions, claims, costs or expenses arising out of a school's decision not to follow this recommended procedure, where it is found that the Centre's Advisory Group has been negligent or has acted in an unfair or discriminatory manner.**

## 3 GENERAL PRINCIPLES

3.1 The following procedure should be used in respect of all cases in which it is alleged that a member of staff or a volunteer in the Centre has:

- behaved in a way that has harmed a child, or may have harmed a child, or;
- 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 would pose a risk of harm if they work regularly or closely with children.

3.2 In addition, the procedure also applies if a concern arises about a member of staff in his/her private life which indicates that s/he would pose a risk of harm if they work regularly or closely with children.

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

### 3.4 Timescales

3.4.1 It is in everyone's interests to resolve cases as quickly as possible, consistent with a fair and thorough investigation and avoid unnecessary delay. Indicative timescales for each stage of the process are set out in section 4. However, it is recognised that the time taken to investigate and resolve individual cases may depend on a variety of factors, including the seriousness and complexity of the case.

### 3.5 Confidentiality

3.5.1 Whilst an allegation is being investigated, every effort should be made to maintain confidentiality. It might be necessary however, for staff to be informed so far as is necessary, particularly in the case of allegations involving Proprietor.

3.5.2 Consideration will also need to be given as to whether to make a brief statement to parents of children in the Centre to provide an element of reassurance and to continue to provide information throughout the investigation.

3.5.3 The police will not normally provide any information to the press or media that might identify an individual, unless or until the person is charged with a criminal offence.

### 3.6 Information sharing

3.6.1 During an initial evaluation of the case, or strategy discussion (see section 4.3.4), the agencies concerned should share all the relevant information that they have about the person who is the subject of the allegation and about the alleged victim.

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

### 3.7 Suspension

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

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

3.7.3 The power to suspend is vested in the Proprietor/Advisory Group. However, it would be appropriate for the views of the police/children's services social care to be canvassed prior to any final decision being made as to whether to suspend a member of staff. In any event, suspension should only follow after discussion with the Local Authority Designated Officer (LADO) /HR Officer and the Advisory Group.

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

3.7.5 Centre should also consider whether the result that would be achieved by suspension could be achieved by alternative arrangements, such as paid leave of absence, additional supervision, undertaking different duties at Centre or at home.

3.7.6 A decision to suspend can be made at any stage during the investigation process, reviewed in the light of new evidence and should be carried out in accordance with the procedure set out in the Dorset Trade Skills (SW) Limited Code of Conduct policy.

3.7.7 Suspension or alternative measures should be in place for as short a length of time as possible and if it is agreed that a member of staff is to return to work, careful planning needs to take place to ensure the situation is managed as sensitively as possible.

### 3.8 Records

3.8.1 It is important that a clear and comprehensive summary recording the outcome of any allegations is kept on a person's file and a copy provided to the individual.

3.8.2 All documents relating to an investigation must be retained until at least the person has reached normal retirement age or for a period of 10 years from the date of the allegation, if that is longer. This includes all allegations, even if unsubstantiated or false but not malicious (refer to definitions at Appendix B). Details of allegations found to be malicious should be removed from the individual's personnel file. This enables accurate information to be given in response to any future request for a reference and will help provide clarity where a future DBS disclosure reveals police information that an allegation was made but did not result in a prosecution or conviction. Such a record also serves to protect the employee from unnecessary re-investigation if allegations resurface after a period of time.

3.8.3 Some cases must be reported to the Disclosure and Barring Service (DBS) for consideration of including the person on the barred list or for consideration by the NCTL. (see Step 5, Referral).

3.8.4 A copy of the allegation should also be placed on the students file, together with a written record of the outcome.

### 3.9 Support

3.9.1 Parents or carers of a child or children involved should be told about the allegation as soon as possible (with the proviso of 4.2.3). They should also be kept informed about the progress of the case, including suspension and told the outcome where there is not a criminal prosecution. This also includes the outcome of any disciplinary process.

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

3.9.3 The school should keep the person who is subject of the allegations informed of the progress of the case and consider what other support is appropriate, such as making them aware of the Staff Counselling Service where appropriate. If the person is suspended, they should be kept informed about developments at the school. Social contact with colleagues and friends at the school should not necessarily be precluded.

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

3.9.6 If the allegations are false and no action is to be taken against the member of staff, the Proprietor/Chair of Advisory Group should still consider whether counselling and/or informal professional advice might be appropriate for all parties, to help rebuild confidence where necessary. Phased return on full pay for the member of staff could be considered and/or the provision of a mentor.

A meeting with the employee and their union representative to discuss such matters would also be helpful.

### 3.10 Resignations

3.10.1 The fact that a person tenders their resignation must not prevent an allegation being followed up in accordance with the procedure outlined at section 4.

3.10.2 It is important that every effort is made to reach a conclusion in all cases, including any in which the individual concerned refuses to co-operate with the process.

3.10.3 Compromise agreements must not therefore be used in any allegation cases.

### 3.11 Oversight and monitoring

3.11.1 The LADO has overall responsibility for the oversight of the procedures for dealing with allegations and will provide advice and guidance to schools/Centre's, as appropriate.

3.11.2 The LADO will also monitor the progress of cases and liaise with the police and other agencies to ensure that cases are dealt with as quickly as possible, consistent with a fair and thorough process.

3.11.3 The contact details for the designated LADO are set out at Appendix B of this document.

3.11.4 HR will work with the LADO to ensure the appropriate application of this procedure and will provide specific advice in cases of formal disciplinary action.

## **4 PROCEDURE**

### **4.1 Step 1: Reporting of Allegations**

4.1.1 All allegations should be reported to the Proprietor immediately, unless the allegation is about the Proprietor in which case it should be reported to the Chair of Advisory Group, or the Vice/Deputy Chair in the Chair's absence.

4.1.2 A written, dated record must be made by the Proprietor/Chair of Advisory Group of the allegations as soon as practicable, but within 24 hours.

4.1.3 The LADO should be informed of all the allegations that come to the Centre's attention so that they can consult the police and children services social care colleagues as appropriate. If the allegation falls under the remit of 3.1 above, the case should be reported to the LADO on the same day, where practicable.

4.1.4 The LADO should also be informed of any allegations that are made directly to the police or children's services social care.

4.1.5 The Proprietor/Chair of Advisory Group should not investigate the allegation at this stage. However, serious consideration will need to be given as to whether it is appropriate to suspend the individual concerned (reference 3.7).

## **4.2 Step 2: Informing relevant parties**

4.2.1 The Proprietor/Chair of Advisory Group should inform the accused person about the allegation as soon as possible after consulting the LADO and subject to 4.2.3 below. If the person is a member of a union or professional association, they should be advised to contact that organisation.

4.2.2 If the parents/carers of the child concerned are not already aware of the allegation, the LADO should also discuss with the Proprietor/Chair of Advisory Group how and by whom they should be informed.

4.2.3 However, where a strategy discussion is needed, or the police or children's services social care need to be involved (see 4.3.4 below), the Proprietor should not inform the relevant parties until those agencies have been consulted and agreed what information can be disclosed.

## **4.3 Step 3: Initial Evaluation**

4.3.1 There may be up to 3 strands in the consideration of an allegation:

- a police investigation of a possible criminal offence; - enquiries and assessment by children's services social care about whether a child is in need of protection or in need of services; - consideration by the Centre of disciplinary/capability action in respect of the individual.

4.3.2 The LADO should discuss the matter with the Proprietor/Chair of Advisory Group, establish that the allegation is within the scope of these procedures and where necessary, obtain further details of the allegation and the circumstances in which it was made.

4.3.3 Consideration should also be given as to whether any other children may be likely to be at risk, in the light of the allegation and whether it might be necessary to review any previous allegations made.

4.3.4 If there is a cause to suspect that a child is suffering or is likely to suffer significant harm, the LADO will contact children services social care and ask for a strategy discussion to be convened straight away. The focus of this discussion will be on the needs of the child or children who may be at risk.

4.3.5 The strategy discussion should include the LADO, HR and the Proprietor/Chair of Advisory Group and take account of information that the school can provide about the circumstances or context of the allegation and the student and member of staff concerned.

4.3.6 If the 'threshold of significant harm' has not been reached, but a police investigation might be needed, the LADO should conduct a similar discussion with the police, Centre and other agencies to evaluate the allegation and decide how best to deal with it.

4.3.7 If the allegation is about physical contact, the strategy discussion or initial evaluation should take account of the fact that teachers and other Centre staff are entitled to use reasonable force to control or restrain students in certain circumstances (see also Dorset Trade Skills (SW) Limited Code of Conduct).

4.3.8 However, the police must always be consulted about any case in which a criminal offence may have been committed.

#### **4.4 Step 4: Action following initial evaluation**

4.4.1 If the child or children appear to be at risk of significant harm and in need of protection, there should be an urgent referral to local child protection agencies in accordance with the agreed procedures.

4.4.2 If as a result of the strategy discussion, there is reasonable belief to suggest that a criminal offence has been committed, the police will carry out a full investigation as outlined in section 4.6.

4.4.3 Where the initial consideration decides that the allegation does not involve a possible criminal offence or that there is no significant risk to the child, the LADO should discuss the next steps with the Proprietor/Chair of Advisory Group and institute action as appropriate within 3 working days.

4.4.4 The options open to the Centre depend on the nature and circumstances of the allegation and the evidence and information available and will range from taking no further action to summary dismissal.

4.4.5 The LADO should continue to liaise with the Centre to monitor the progress of any case and provide advice and support as necessary. Reviews should be conducted at fortnightly or monthly intervals depending on the complexity of the case.

#### **4.5 Unsubstantiated, False and Malicious allegations (refer to Appendix B for definitions)**

4.5.1 If the allegation is considered to be false, the LADO should refer the matter to children's services social care to determine whether the child concerned is in need of services or may have been abused by someone else.

4.5.2 In respect of malicious allegations, consideration should also be given to whether disciplinary action against the student who made the allegation is appropriate.

4.5.3 The member of staff should be informed of the allegation verbally and in writing, if this has not already been done in line with 4.2.1. The suspension should be lifted immediately, if applicable. They should be told of the fact that no further action will be taken in accordance with disciplinary/child protection procedures and relevant support considered in respect of their return to work as well as other factors as appropriate on a case by case basis.

4.5.4 The Proprietor/Chair of Advisory Group should also inform the parents of the child or the children of the outcome and consider what counselling and support would be appropriate. Advice and support should be sought from the Local Authority as appropriate.

4.5.5 Any details relating to an allegation that is found to be malicious should be removed from the personnel record. Where an allegation is found to be unfounded or false and a decision is made to take no further action, a written record should be made, including the reason for the decision. A copy of this should be provided to the employee.

#### 4.6 Police investigation

4.6.1 If a criminal investigation is required, the police will aim to complete their enquiries as quickly as possible consistent with a fair and thorough investigation and will keep the progress of the case under review.

4.6.2 A target date should be set for reviewing the progress of the investigation and this should take place no later than 4 weeks after the initial evaluation.

4.6.3 When a decision has been made not to charge the individual with an offence or administer a caution, the police should, wherever possible, aim to pass all the information they have to the Centre within 3 working days, as this may be relevant to a disciplinary case.

4.6.4 If the person is convicted of an offence the police should inform the Centre straight away. The action the school might take will depend on the circumstances of the case and consideration will need to be given to the different standard of proof required in disciplinary and criminal proceedings. For example, it may be the case that whilst there is no criminal prosecution that the standard of proof required for employment law purposes deems that dismissal is appropriate.

#### 4.7 Disciplinary action

4.7.1 If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days in accordance with the Dorset Trade Skills (SW) Limited Disciplinary Policy.

4.7.2 Notwithstanding 4.6.1 above, 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 completion of the police enquiries and/or prosecution. In cases where a disciplinary investigation/action is undertaken in parallel with the criminal process it will have been agreed with the police that there is no requirement to await the completion of enquiries and/or prosecution.

4.7.3 Where further investigation is required to inform consideration of disciplinary action, the Proprietor/Chair of Advisory Group should appoint an appropriate level Investigating Officer, in consultation with HR.

4.7.4 If further evidence comes to light during the course of the investigation, referral to child protection agencies may need to be considered.

4.7.5 The investigating officer should aim to provide a report to the Centre within 10 working days.

4.7.6 Within 2 working days of receipt of the report, the Proprietor/Chair of Advisory Group should consult HR and decide whether a disciplinary hearing is needed. If this is the case, the hearing should be held within 15 working days.

#### 4.8 References

4.8.1 Allegations which are proved to be unsubstantiated, false or malicious must not be included in employer references. Nor should a history of repeated concerns or allegations all of which have been found to be unsubstantiated, false or malicious be included in any reference.

### **5 Step 5: Referral to the Disclosure and Barring Service (DBS)**

5.1 On conclusion of the case, where an allegation has been substantiated, the Centre should consult the 'Guidance for making referrals to the Disclosure and Barring Service' in order to determine whether a referral needs to be made. Making the referral is the responsibility of the Proprietor (or Chair of Advisory Group) but the LADO and HR will be available for advice.

### **6 Step 6: Formal Review**

6.1 In cases where an allegation has been substantiated, the LADO should review the circumstances of the case with the Proprietor/Chair of Advisory Group and determine whether there are any improvements that could be made to the Centre's procedures/practice, to help prevent similar events occurring in the future.

## **Appendix B**

### **Definitions**

#### **1.1 Types of Allegation**

##### **(i) No further action after initial consideration**

Initial consideration means the discussion about whether the alleged incident constitutes an allegation within the scope of the Local Safeguarding Children Board (LSCB) procedures, i.e. the initial discussion with the LADO, Social Care or Police, following which there may be no need for further action under the procedures. It does not mean following an initial assessment undertaken in accordance with the Framework for the Assessment of Children in Need and their Families.

##### **(ii) Substantiated**

There is sufficient evidence to prove the allegation.

##### **(iii) Unsubstantiated**

This is not the same as a false (malicious) allegation. It simply means that there is insufficient evidence to prove or disprove the allegation. The term does not imply guilt or innocence.

**(iv) Malicious**

This means there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive.

**(v) False**

This means that the allegation has been proved to be untrue.

**1.2 Chair of Advisory Group**

Responsible for liaising with the Proprietor/Designated Safeguarding Lead at the school over matters regarding child protection issues, or in the case of allegations against the Proprietor, liaising with the LA Designated Officer/HR over appropriate action to take.

**1.3 Local Authority Designated Officer (LADO)**

The LADO must be involved in the management and oversight of individual cases which meet the threshold set out at 3.1; provides advice and guidance to employers; liaises with the police and other agencies; and monitors the progress of cases to ensure they are dealt with as quickly as possible, consistent with a fair and thorough process.

Contact details for the Dorset LADO : Telephone: 01305 221122      Fax 01305 251814

**1.4 Dorset Safeguarding Children Board**

Key statutory mechanism for agreeing how the relevant organisations in each local area will co-operate to safeguard and promote the welfare of children.