



ALLEGATIONS OF ABUSE AGAINST STAFF SENDAT POLICY

THIS POLICY SHOULD BE READ IN CONJUNCTION WITH THE ACCOMPANYING GUIDANCE

This policy is reviewed biennially by the Provision Committee.

To be read in conjunction with but not limited to:

- Safeguarding and Child Protection policy
- SENDAT Complaints policy
- Staff Code of Conduct
- Acceptable Use of ICT
- Disciplinary policy and procedure and other relevant policies and procedures

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ALLEGATIONS OF ABUSE AGAINST TEACHERS AND OTHER STAFF – SENDAT POLICY

STATEMENT OF INTENT

SENDAT is a Multi Academy Trust specialising in the care and education of young people with Special Educational Needs and Disabilities. This policy should be considered in the light of this context and the complexity of need that is accommodated within the Trust and its constituent Schools / Alternative Provisions (APs).

1. INTRODUCTION

This policy and accompanying guidance applies to all 'staff members' whose work brings them into contact with students in an education setting. It therefore applies to all teachers (including supply teachers) and support staff, volunteers and other adults, whether paid or working in a voluntary capacity on or off SENDAT premises and sites.

In the case of an allegation against the Exec Head / Head of School/AP, the CEO or Chair of the Full Trust Board (or in their absence the Vice Chair) is responsible for ensuring the process is followed.



This policy and guidance relates to the action the Headteacher / Head of School/AP (or CEO / Chair of the Full Trust Board in the case of an allegation against the Headteacher / Head of School/AP or CEO) must follow where an allegation has been made against a member of staff. The Headteacher / Head of School/AP **must not** delegate this responsibility.

2. WHAT IS AN ALLEGATION

This policy and guidance applies in respect of all cases in which it is alleged that a member of staff in a SENDAT School/AP has:

- behaved in a way that has harmed, or may have harmed a student;
- possibly committed a criminal offence against, or related to, a student;
- behaved towards a student or students in a way that indicates he or she would pose a risk of harm if they work regularly or closely with students.

When an allegation is made, it is important that the procedures contained in the attached guidance are followed immediately and **no internal investigation should be commenced** until agreement is given to proceed.

It is essential that any allegation of abuse made against a teacher, other member of staff or a volunteer is dealt with fairly, quickly and consistently, in a manner which provides effective protection for the student and also supports the person who is the subject of the allegation.

When an allegation has been made consideration will be given to whether:

- any action is needed;
- a Police investigation of a possible criminal offence is required;
- enquiries and assessment by Children's Social Care Services are required about whether a student is in need of protection or in need of services;
- disciplinary action or other sanction may be necessary.

3. POSITIVE PHYSICAL INTERVENTION

Where an allegation is made involving the use of physical intervention, consideration should be given to whether the action taken was necessary and proportionate.

Where an incident relates to the use of reasonable force to restrain a student, it will be appropriate for the Headteacher/ Head of School/AP to deal with this in accordance with SENDAT and any local procedures, following guidance in the Use of Reasonable Force (DfE July 2013).

All such incidents should be reported, recorded and discussed with parents as soon as possible in line with the SENDAT policy.

If an allegation of assault is made following a restraint, this must be seen as a student protection matter, and discussed with the LADO in accordance with these procedures.



4. PROCEDURE FOR MANAGING ALLEGATIONS

Allegations may be made directly to the Headteacher / Head of School/AP by students, parents, members of staff or other persons.

Allegations can be reported directly to the Head of School/AP or by completing staff safe

All staff have a responsibility to report a member of staff they believe is 'harming' or using unacceptable behaviour towards a student, to the Headteacher. Where a student or adult reports concerns to a member of staff, they must be listened to and taken seriously.

5. LOCAL AUTHORITY DESIGNATED OFFICERS (LADO)

The Role of the LADO – Allegations against people in a position of trust

Working Together to Safeguard Children refers to local authorities having a designated officer or a team of designated officers involved in the management and oversight of allegations against people that work with children. <https://suffolksp.org.uk/working-with-children-andadults/children/local-authority-designated-officers-lado/>

6. PROCEDURES FOLLOWING AN ALLEGATION

When a concern about a member of staff is brought to the attention of the Head of School (HoS)/ Headteacher (HT), they will immediately contact the LADO, and then notify the CEO. No investigation will take place whilst waiting for feedback from the LADO. Further information about the LADO in the guidance. All LADO outcomes including unsubstantiated allegations must be communicated clearly to the member of staff involved.

7. EXTERNAL INVESTIGATIONS

Where the Police or Social Care are investigating an allegation, a School/AP internal investigation is normally held in abeyance until the outcome is known. However, in consultation with the Police an internal investigation may be conducted in parallel.

8. MANAGING AN INTERNAL INVESTIGATION / DISCIPLINARY PROCESS

Following completion of an external investigation or if the matter is not pursued by the Police or Children's Services Social Care, an allegation against a member of staff may require an internal investigation to determine whether disciplinary action is needed. Disciplinary action should not be taken until the alleged misconduct has been properly investigated.

An investigation will normally involve an interview with the member of staff concerned who may be accompanied by a colleague or trade union representative. The LADO and the SENDAT HR Manager will support the Headteacher / Head of School/AP throughout this process.

The investigation may conclude that:

- no further action is required
- it may be appropriate to offer support or further training



- it would be appropriate to give management guidance in order to register concerns, without recourse to disciplinary action

- a referral to the formal disciplinary procedure is needed

Disciplinary Hearing

Please refer to the SENDAT Disciplinary policy and procedure.

9. SUSPENSION

When an allegation is made against a member of staff, the possible risk of harm posed should be evaluated and managed. It may be necessary to consider whether the member of staff should be asked to refrain from work or suspended for the duration of the investigation. Suspension is a neutral act and is intended as a safeguard for both the student and the member of staff concerned.

Suspension should not be an automatic response when an allegation is reported; all options to avoid suspension should be considered prior to taking that step.

Where it is deemed there is no alternative, suspension should only be considered on the following grounds:

- where a student or students are deemed to be at risk;
- where suspension is necessary to ensure the investigation is not impeded or prejudiced;
- where the allegation is of an exceptionally serious nature that dismissal for gross misconduct is a possible outcome.

If suspension is considered necessary, the rationale and justification for such a course of action should be agreed and recorded. This should also include what alternatives to suspension have been considered and why they were rejected.

Written confirmation should be sent to the member of staff within one working day, giving as much detail as appropriate for the reasons for the suspension.

The decision to suspend is made by the Headteacher / Head of School/AP after taking advice from the LADO. A Strategy Meeting may recommend suspension which will need to be seriously considered.

Review of Suspension

Suspension will be on full pay and the lifting of the suspension may be considered at any time during the proceedings. The suspension should be reviewed every 15 working days or at a mutually agreed time and the member of staff given the opportunity to attend a meeting to discuss the suspension. It would not be appropriate to discuss the allegation itself but determine whether the suspension is still necessary.



Support for Suspended Member of Staff

SENDAT and all its constituent Schools/APs have a duty of care to their employees and should act to manage and minimise the stress inherent in the allegations process.

10. SUPPLY, CASUAL OR VOLUNTEER WORKERS

In some circumstances the School/AP at which a person works will need to consider an allegation where the person does not have an ongoing employment contract with them, for example: supply teachers, casual/agency workers, volunteers or contractors. It may be necessary to act jointly with another organisation or service provider.

In these cases the normal disciplinary procedures will not apply, but it is necessary to investigate the allegation, reach a decision about whether to continue with the person's services and whether a referral to the DBS is needed. Contact the SENDAT HR Manager for further advice.

When the allegation has been made it will be necessary to consider whether that person should be prevented from working in any SENDAT School/AP until the outcome of the investigation is known.

11. COMMUNICATION WITH STAFF, TRUSTEES, LAB MEMBERS, PARENTS, STUDENTS AND THE MEDIA

Every effort will be made to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated. Details of the complaint should not be discussed with members of staff or Trustees, although the CEO may wish to inform the Chair of Trustees that an allegation is being investigated.

Similarly, when an allegation concerns the Headteacher / Head of School/AP or CEO the Chair of CEO / Chair of Trustees investigating the matter should not inform or discuss the allegation with the full Trust Board, but may wish to take advice from the HR Manager.

If the parents or carers of a student or students involved are not aware of the allegation they should be advised of the allegation as soon as possible.

Parents/carers should be kept informed of the progress of the case and told the outcome where there is not a criminal prosecution. The deliberations of a disciplinary hearing and the information taken into account in reaching a decision should not normally be discussed.

10. FALSE, UNSUBSTANTIATED, UNFOUNDED OR MALICIOUS ALLEGATIONS

The Headteacher / Head of School/AP /Police/Strategy Meeting may conclude, without or following an investigation, that an allegation is unfounded. In this case the Headteacher / Head of School/AP in consultation with the LADO should:

- Inform the member of staff orally and in writing that no further action is being taken against them under student protection or disciplinary procedures.
- Offer counselling and/or professional support to the member of staff, as appropriate.



- Inform the parents of the student/s of the allegation that it has been dealt with appropriately. Parents do not have the right to know the detail of any investigation.
- Consider appropriate support for the person who made the allegations.

11. REFERRAL TO THE DISCLOSURE AND BARRING SERVICE (DBS) AND/OR NATIONAL COLLEGE FOR TEACHING AND LEADERSHIP

If the allegation is substantiated and the person is dismissed or the School/SP ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the LADO should discuss with the Headteacher / Head of School/AP and the HR Manager whether a referral to the Disclosure and Barring Service (DBS) for consideration of inclusion on the barred lists or to the National College for Teaching and Leadership is required.

12. RESIGNATIONS AND SETTLEMENT AGREEMENTS

The fact that a member of staff tenders his/her resignation, or ceases to provide his/her services, must not prevent an allegation being followed up under these procedures.

The process of recording the allegation and any supporting evidence and reaching a judgement about whether it can be substantiated on the basis of all the information available, should continue even if that cannot be done or the accused does not co-operate.

Settlement agreements, whereby a member of staff agrees to resign if the School/AP agrees not to pursue disciplinary action and may agree a form of wording to be used in a future reference, **must not** be used where the person is the subject of an allegation. Any agreement would not in any event prevent a Police investigation, where appropriate, nor override the statutory duty to report the case to the DBS, where applicable.

13. TIMESCALES

It is in everyone's interests to resolve cases as quickly as possible without unnecessary delay, whilst enabling a fair and thorough investigation to take place. The time taken to investigate and resolve individual cases will depend on the seriousness and complexity of the investigation. Every effort will be made to minimise timescales.

Cases Subject to Police Investigation

Staff should be made aware that allegations that require the forensic examination of computers, phones or other IT equipment is likely to take several months.

14. RECORD KEEPING

A clear and comprehensive summary of the allegation will be kept on the member of staff's confidential personal file and a copy provided to the member of staff. This will ensure that accurate information is given in response to a future DBS Disclosure or a reference request and prevent unnecessary reinvestigation.

Details of allegations that are found to have been malicious should be removed from HR records.



15. 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 any reference.