

# Managing Allegations Against Staff And Volunteers Who Work with Children

## St. Peter's CE Primary School, Heswall



John 8:12 "I am the light of the world. Whoever follows me will never walk in darkness, but will have the light of life."

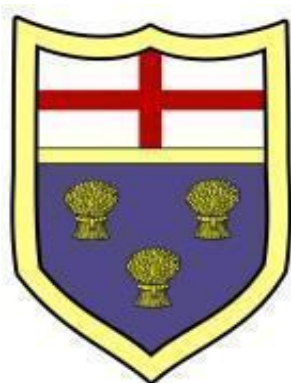
**ST. PETER'S CE PRIMARY SCHOOL**

*firm foundations, shining bright*

Matthew 16:18 "You are Peter and upon this rock I shall build my church."

### OUR VISION

Like St Peter, we build upon the rock of Jesus to enable us to shine: achieving our God given potential and loving ourselves, others, the world and God.



**2023 – 2024**

## Introduction

The Governing Body of St. Peter's CE Primary school are committed to and recognise their statutory duty to safeguarding children. Despite all efforts to recruit safely there will be occasions when allegations of abuse against children are raised

When allegations arise against a person working with children the Governing Body will follow the procedures outlined in 'Keeping Children Safe' alongside the document Working Together to Safeguard Children. The procedures will be used when an allegation is made that an adult has:

- Behaved in a way that has harmed, 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 may pose a risk of harm to children.

These behaviours should be considered within the context of the four categories of abuse (ie physical, sexual and emotional abuse and neglect).

## Statutory Framework

Working Together to Safeguard Children provides guidance about how to manage allegations against adults working with children and young people.

Working Together states that *all* organisations that provide services for children or provide staff or volunteers to work with or care for children should operate a procedure for handling such allegations that is consistent with the guidance.

## Underlying Principles

- The welfare of the child is paramount;
- Adults about whom there are concerns should be treated fairly and honestly and should be provided with support;
- It is the responsibility of all adults to safeguard and promote the welfare of children and young people. This responsibility extends to a duty of care for those adults employed, commissioned or contracted to work with children and young people.

## Roles and Responsibilities

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The Governing Body identifies Mr Michael Parry, Headteacher, as the Named Senior Officer with overall responsibility for:

- Ensuring that the school deals with allegations in accordance with these *Wirral Local Safeguarding Board Procedures*;

- Resolving any inter-agency issues;
- Liaising with the WSCB on the subject;
- Liaise with their Human Resources Department and the **Local Authority Designated Officer LADO** to undertake any investigation, when it has been confirmed that the police will not lead.

Local authorities are required to assign a Local Authority Designated Officer (LADO) to:

- Be involved in the management and oversight of individual cases;
- Provide advice and guidance to employers and voluntary organisations;
- Liaise with the police and other agencies;
- Monitor the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process.

The LADO for the Wirral Local Authority is **Pamela Cope**. Her contact details are:

**Mobile: 07748 873560**

**Email: [pamelacope@wirral.gov.uk](mailto:pamelacope@wirral.gov.uk)**

Mr Michael Parry, Headteacher, is the Designated Senior Manager to whom allegations or concerns should be reported;

In the absence of the designated senior manager or where that person is the subject of the allegation or concern, reports should be made to Mrs Emma Birmingham, Deputy Headteacher.

## **The Process**

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### **Initial Action by Person Receiving or Identifying an Allegation or Concern**

An allegation against a member of staff may arise from a number of sources (e.g. a report from a child, a concern raised by another adult in the organisation, or a complaint by a parent).

The person to whom an allegation or concern is first reported should treat the matter seriously and keep an open mind.

They should not:

- Investigate or ask leading questions if seeking clarification;
- Make assumptions or offer alternative explanations;

- Promise confidentiality, but give assurance that the information will only be shared on a 'need to know' basis;
- Seek further information or evidence to prove the allegation to any degree, prior to referring.

They should:

- Make a written record of the information (where possible in the child / adult's own words), including the time, date and place of incident/s, persons present and what was said;
- Sign and date the written record;
- Immediately report the matter to the Designated Senior Manager, or the deputy in their absence or; where the designated senior manager is the subject of the allegation report to the deputy or other appropriate senior manager.

### **Initial Action by Designated Senior Manager**

When informed of a concern or allegation, the Designated Senior Manager should *not* investigate the matter in any way, nor interview the member of staff, child concerned or potential witnesses. They should:

- Obtain written details of the concern/allegation, signed and dated by the person receiving (not the child/adult making the allegation);
- Approve and date the written details;
- Record any information about times, dates and location of incident/s and names of any potential witnesses;
- Record discussions about the child and/or member of staff, any decisions made, and the reasons for those decisions.

In the first instance, the Headteacher or chair of governors should immediately discuss the allegation with the LADO. The purpose of an initial discussion is for the LADO and the case manager to consider the nature, content and context of the allegation and agree a course of action.

The LADO may ask the case manager to provide or obtain relevant additional information, such as previous history, whether the child or their family have made similar allegations previously and the individual's current contact with children. There may be situations when the case manager will want to involve the police immediately, for example if the person is deemed to be an immediate risk to children or there is evidence of a possible criminal offence.

Where there is no such evidence, the case manager should discuss the allegations with the LADO in order to help determine whether police involvement is necessary.

The initial sharing of information and evaluation may lead to a decision that no further action is to be 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 case manager and the LADO, and agreement reached on what information should be put in writing to the individual concerned and by whom. The case manager should then consider with the LADO what action should follow both in respect of the individual and those who made the initial allegation.

All referring agencies must ensure that they do *not* delay a referral in order to gather information and a failure to report an allegation or concern in accordance with procedures as above is a potential disciplinary matter.

If the allegation meets the referral criteria, the Senior Manager will complete in full a LADO Allegations referral form.

This will be returned within **one working day**. If an allegation requires immediate attention, but is received outside normal office hours, the designated senior manager will consult the LA Children's Specialist Services emergency duty team or local police and inform the LADO as soon as possible.

The LADO will advise the employer whether or not informing the parents of the child/ren involved will impede the investigative processes or disciplinary. Acting on this advice, if it is agreed that the information can be fully or partially shared, the Headteacher should inform the parent/s. In some circumstances, however, the parent/s may need to be told straight away (e.g. if a child is injured and requires medical treatment).

If there is the suggestion that the child has been injured as a result of the professional's action or inaction; or if there will possibly be a police investigation, normal child protection procedures must run concurrently with Managing Allegations Procedures. That being that a Multi-Agency Request for Service form must be completed by the Named Senior Manager in full. This must be forwarded immediately to ensure that the opportunity for statutory agencies to review the case and assess the need for a child protection medical is not lost.

Once information sharing has been agreed, the Senior Manager should ensure that the parent/s and the child, if sufficiently mature, are helped to understand the processes involved and kept informed about the progress of the case and of the outcome where there is no criminal prosecution. This will include the outcome of any disciplinary process, but not the deliberations of, or the information used in, a hearing.

The employer should seek advice from their Human Resources Department, the LADO, the police and/or LA Children's Specialist Services about how much information should be disclosed to the accused person.

Subject to restrictions on the information that can be shared, the employer should, as soon as possible, inform the accused person about the nature of the allegation, how

enquiries will be conducted and the possible outcome, (e.g. disciplinary action, and dismissal or referral to the **DBS** or regulatory body).

The accused member of staff should:

- Be treated fairly and honestly and helped to understand the concerns expressed and processes involved;
- Be kept informed of the progress and outcome of any investigation and the implications for any disciplinary or related process;
- If suspended, be kept up to date about events in the workplace.

Information regarding liaising with the accused member will be provided by the Human Resources Department. In the case of schools, the LA Consultant Headteachers should also be used as a source of support by the Senior Manager throughout this process.

**Ofsted** should be informed by the Senior Manager of any allegation or concern made against a member of staff in any day care establishment for children under 8 or against a registered child minder. They should also be invited to take part in any subsequent strategy meeting/discussion.

LA Children's Specialist Services Fostering Department should inform Ofsted of all allegations made against a foster carer, prospective adopter, or member of staff in a residential child care facility.

### **Initial consideration by the Designated Senior Manager and the LADO**

There are up to three strands in the consideration of an allegation:

1. A police investigation of a possible criminal offence;
2. Social care enquiries and/or assessment about whether a child is in need of protection or services;
3. Consideration by an employer of disciplinary action.

The LADO and the Designated Senior Manager should consider first whether further details are needed and whether there is evidence or immediately available information confirms that the allegation is false or unfounded. Care should be taken to ensure the accurate recording of dates, times, locations or identities of individuals involved.

If the allegation is not demonstrably false and there is cause to suspect that a child is suffering or is likely to have suffered harm, the LADO should ensure the Designated Senior Manager has completed a referral to the Central Advice and Duty Team (CADT) and ask the LA Children's Specialist Services to convene an immediate strategy meeting/discussion.

The police must be consulted about any case in which a criminal offence may have been committed. If the threshold for harm is not reached, but a police investigation might be needed, the LADO should immediately inform the police and convene an initial evaluation (similar to **Strategy Discussions/Meetings and Section 47 Enquiries as Part of Social Work Assessment of Needs and Strengths Procedure**), to include the police, employer and other agencies involved with the child. This discussion can take place via the telephone, but is often included as part of the **Strategy Meeting** chaired by the Team Manager from LA Children's Specialist Services and attended by the LADO.

References in this document to 'strategy meetings/discussions' should be read to include 'Initial evaluations' where appropriate.

### **Purpose of Strategy Meeting/Discussion**

Wherever possible, a strategy meeting/discussion/initial evaluation should take the form of a meeting. However, on occasions a telephone discussion may be justified. The following is a list of possible participants:

- Social care manager to chair (if a strategy meeting);
- LADO;
- Relevant social worker(s) and their manager(s);
- Detective Sergeant;
- The Designated and/or named Safeguarding Children Health Professional (CCG); and always when an allegation concerns a health agency worker /professional;
- Consultant paediatrician;
- Designated Senior Manager for the employer concerned;
- Human Resources representative;
- Legal adviser where appropriate;
- Senior representative of the employment agency or voluntary organisation if applicable;
- Manager from the Fostering Service provider when an allegation is made against a foster carer;
- Supervising Social Worker when an allegation is made against a foster carer;
- Those responsible for regulation and inspection where applicable (eg CQC,GMC or Ofsted);
- Where a child is placed or resident in the area of another authority, representative/s of relevant agencies in that area;
- Complaints officer, if the concern has arisen from a complaint.

The strategy meeting/discussion/initial evaluation should:

- Decide whether there should be a **Section 47 Enquiry** and/or police investigation and consider the implications;
- Consider whether any parallel disciplinary process can take place and agree protocols for sharing information;
- Identify sources of advice support for the Senior Named Officer;
- Consider the current allegation in the context of any previous allegations or concerns;
- Where appropriate, take account of any entitlement by staff to use reasonable force to control or restrain children (e.g. **Section 93, Education and Inspections Act 2006** in respect of teachers and authorised staff);
- Plan enquiries if needed, allocate tasks and set timescales;
- Decide what information can be shared, with whom and when.

The strategy meeting/discussion/initial evaluation should also:

- Ensure that arrangements are made to protect the child/ren involved and any other child/ren affected, including taking emergency action where needed;
- Consider what support should be provided to all children who may be affected;
- Consider what support should be provided to the member of staff and others who may be affected and how they will be kept up to date with the progress of the investigation;
- Ensure that investigations are sufficiently independent and those investigating are not conflicted in any way;
- Make recommendations where appropriate regarding suspension, or alternatives to suspension;
- Identify a lead contact manager within each agency to share information with the LADO;
- Agree protocols for reviewing investigations and monitoring progress by the LADO, having regard to the target timescales;
- Consider issues for the attention of senior management (e.g. media interest, resource implications);
- Consider reports for consideration of barring;
- Consider risk assessments to inform the employer's safeguarding arrangements;
- Agree dates for future strategy meetings / discussions.



A final strategy meeting/discussion/evaluation should take place to ensure that all tasks have been completed, including any employer referrals to the DBS if appropriate, and, where appropriate, agree an action plan for future practice based on lessons learnt.

The strategy meeting/discussion/initial evaluation should take into account the following definitions when determining the outcome of allegation investigations:

1. **Founded:** There is sufficient identifiable evidence to prove the allegation;
2. **False:** There is sufficient evidence to disprove the allegation;
3. **Malicious:** There is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false;
4. **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 not have been aware of all the circumstances;
5. **Unsubstantiated:** This 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.

## Suitability

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### Allegations against Staff in their Personal Lives

If an allegation or concern arises about a member of staff, outside of their work with children, and this may present a risk of harm to child/ren for whom the member of staff is responsible; or the behaviour suggests that the individual may be unsuitable to work with children and young people, the general principles outlined in these procedures will still apply.

The strategy meeting/discussion should decide whether the concern justifies:

- Approaching the member of staff's employer for further information, in order to assess the level of risk of harm; and / or
- Inviting the employer to a further strategy meeting / discussion about dealing with the possible risk of harm;
- Seeking a risk assessment from the member of staff's employer to ensure that appropriate safeguards are implemented.

If the member of staff lives in a different authority area to that which covers their workplace, liaison should take place between the relevant agencies in both areas and a joint strategy meeting/discussion convened.

In some cases, an allegation of abuse against someone closely associated with a member of staff, (e.g. partner, member of the family or other household member), may present a risk of harm to child/ren for whom the member of staff is responsible. In these circumstances, a strategy meeting/discussion should be convened to consider:

- The ability and/or willingness of the member of staff to adequately protect the child/ren;
- Whether measures need to be put in place to ensure their protection;
- Whether the role of the member of staff is compromised.

### **Disciplinary Action and Investigations**

The LADO and the Designated Senior Manager should discuss whether disciplinary action is appropriate in all cases where:

- It is clear at the outset or decided by a strategy meeting/discussion that a police investigation or LA Children's Specialist Services enquiry is not necessary; or
- The member of staff has admitted the guilt or crime to a level of which is sufficient enough for any disciplinary action to proceed without any further investigation which may undermine a criminal case; or
- The employer or LADO is informed by the police or the Crown Prosecution Service that a criminal investigation and any subsequent trial is complete, or that an investigation is to be closed without charge, or a prosecution discontinued.

The discussion should consider any potential misconduct or gross misconduct on the part of the member of staff, and take into account:

- Information provided by the police and/or LA Children's Specialist Services;
- The result of any investigation or trial;
- The different standard of proof in disciplinary and criminal proceedings.

In all cases of any misconduct or disciplinary action, advice and guidance will be provided by the employer's Human Resources Supplier who will take advice from the LADO and/or police with regard to the scope of any investigation and if it may impact upon any criminal enquiries. Schools should also seek guidance from the LA Consultant Headteacher.

In the case of supply, contract and volunteer workers, normal disciplinary procedures may not apply. In these circumstances, the LADO and employer should act jointly with the providing agency, if any, in deciding whether to continue to use the person's services, or provide future work with children, and if not, whether to make a report for consideration of barring or other action.

If formal disciplinary action is not required, the employer should institute appropriate action within three working days. If a disciplinary hearing is required, and further investigation is not required, it should be held within 15 working days.

If further investigation is needed, to decide upon disciplinary action, the employer, the HR Supplier and LADO should discuss whether the employer has appropriate resources or whether the employer should commission an independent investigation because of the nature and/or complexity of the case and in order to ensure objectivity. The investigation should not be conducted by a relative or friend of the member of staff.

The aim of an investigation is to obtain, as far as possible, a fair, balanced and accurate record in order to consider the appropriateness of disciplinary action and/or the individual's suitability to continue to work with children.

If, at any stage, new information emerges that requires a child protection referral, this should be completed without delay and the investigation should be held in abeyance and only resumed if agreed with LA Children's Specialist Services and the Police. Consideration should again be given as to whether suspension is appropriate in light of the new information.

The investigating officer should aim to provide a report within ten working days.

On receipt of the report the employer should decide, within two working days, whether a disciplinary hearing is needed. If a hearing is required, it should be held within 15 working days.

### **Sharing Information for Disciplinary Purposes**

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Wherever possible, Police and LA Children's Specialist Services should, during the course of their investigations and enquiries, obtain consent to provide the employer and/or regulatory body with statements and evidence for disciplinary purposes.

If the police or CPS decide not to charge, or decide to administer a caution, or the person is acquitted, the police should pass all relevant information to the employer without delay.

If the person is convicted, the police should inform the employer and the LADO straight away so that appropriate action can be taken.

### **Record Keeping and Monitoring of Cases**

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#### **Record Keeping**

Employers should keep a clear and comprehensive summary of the case record on a person's confidential personnel file and give a copy to the individual. The record should include details of how the allegation was followed up and resolved, the decisions reached and the action taken. It should be kept at least until the person reaches normal retirement age or for ten years if longer. Care should be taken regarding sharing third party information, which should only be shared with consent.

The purpose of the record is to enable accurate information to be given in response to any future request for a reference if the person has moved on. It will provide clarification where a future DBS request reveals non convicted information, and will help to prevent unnecessary reinvestigation if an allegation re-surfaces after a period of time. In this sense it may serve as a protector to the individual themselves, as well as in cases where substantiated allegations need to be known about to safeguard future children.

Details of allegations that are found to be malicious should be removed from personnel records. For education services refer to the DfE statutory guidance **Dealing with Allegations of Abuse Against Teachers and Other Staff** which was updated and published for implementation October 1st 2012.

## **Outcomes and Referral to DBS**

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### **Unsubstantiated and False Allegations**

Where it is concluded that there is insufficient evidence to substantiate an allegation, the Chair of the strategy meeting/discussion or initial evaluation should prepare a separate report of the enquiry and forward this to the Designated Senior Manager of the employer to enable them to consider what further action, if any, should be taken.

False allegations are extremely rare and may be a strong indicator of abuse elsewhere which requires further exploration. If an allegation is demonstrably false/malicious, the employer, in consultation with the LADO, should consider referring the matter to LA Children's Specialist Services to determine whether the child is in need of services, or might have been abused by someone else. If it is established that an allegation has been deliberately invented, the police should be asked to consider what action may be appropriate.

### **Founded Allegations**

The **Disclosure and Barring Service (DBS)** was established under the Protection of Freedoms Act 2012 and merges the functions previously carried out by the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA). The relevant legislation is set out in the **Protection of Freedoms Act 2012**.

If an allegation is founded and the person is dismissed or the employer ceases to use the person's service or the person resigns or otherwise ceases to provide his/her services, the LADO should discuss with the employer whether a referral should be made to the Disclosure and Barring Service (DBS).

If a referral is to be made; it must be submitted within one month of the allegation being substantiated.

## **Confidentiality and Support**

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### **Confidentiality**

Every effort should be made to maintain confidentiality and guard against publicity while an allegation is being investigated or considered. Apart from keeping the child, parents and accused person (where this would not place the child at further risk) up to date with progress of the case, information should be restricted to those who have a need to know in order to protect children, facilitate enquiries, manage related disciplinary or suitability processes.

The police should not provide identifying information to the press or media, unless and until a person is charged, except in exceptional circumstances (e.g. an appeal to trace a suspect). In such cases, the reasons should be documented and partner agencies consulted beforehand.

**Section 13 of the Education Act 2011** introduces new restrictions implemented in September 2012 on the publication of any information that would identify a teacher who is the subject of an allegation of misconduct that would constitute a criminal offence, where the alleged victim of the offence is a registered pupil at the school.

Such restrictions remain in place unless or until the teacher is charged with a criminal offence, though they may be dispensed with on the application to the Magistrates' Court by any person, if the court is satisfied that it is in the interests of justice to do so, having regard to the welfare of -

- a. The person who is the subject of the allegation; and
- b. The victim of the offence to which the allegation relates.

There is a right of appeal to the Crown Court.

This restriction will apply to allegations made against any teacher who works at a school, including supply and peripatetic teachers. 'School' includes academies, Free Schools, independent schools and all types of maintained schools.

There is a new offence of publishing any information in breach of these restrictions. Publication includes any communication, in whatever form, which is addressed to the public at large or any section of the public.

It is a defence to show that the person publishing was not aware of the allegation having been made as set out in section 141H 'Defences' of the Act.

## Support

St Peter's CE Primary, together with LA Children's Specialist Services and/or police, where they are involved, should consider the impact on the child concerned and provide support as appropriate. Liaison between the agencies should take place in order to ensure that the child's needs are addressed.

As soon as possible after an allegation has been received, the accused member of staff should be advised to contact their union or professional association. Human Resources should be consulted at the earliest opportunity in order that appropriate support can be provided via the organisation's occupational health or employee welfare arrangements.

## Suspension

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Suspension is a neutral act and it should not be automatic. It should be considered in any case where:

- There is cause to suspect a child is suffering or likely to suffer **Significant Harm**; or
- The allegation warrants investigation by the police; or
- The allegation is so serious that it might be grounds for dismissal.

The possible risk of harm to children is paramount and should be evaluated and managed in respect of the child/ren involved and any other children in the accused member of staff's home, work or community life.

If a strategy meeting/discussion is to be held or if LA Children's Specialist Services or the Police are to make enquiries, the LADO should canvass their views on suspension and inform the employer. Only the employer, however, has the power to suspend an accused employee, but should take into careful consideration the opinions of those involved in the investigation.

If a suspended person is to return to work, the employer should consider what help and support might be appropriate (e.g. a phased return to work and/or provision of a mentor), and also how best to manage the member of staff's contact with the child concerned, if still in the workplace.

## Resignations and Compromise Agreements

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Every effort should be made to reach a conclusion in all cases even if:

- The individual refuses to cooperate, having been given a full opportunity to answer the allegation and make representations;
- It may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete.

Compromise agreements' must not be used (ie where a member of staff agrees to resign provided that disciplinary action is not taken and that a future reference is agreed)

### **Organised and Historical Abuse**

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Investigators should be alert to signs of organised or widespread abuse and/or the involvement of other perpetrators or institutions. They should consider whether the matter should be dealt with in accordance with complex abuse procedures which, if applicable, will take priority.

Historical allegations should be responded to in the same way as contemporary concerns. It will be important to ascertain if the person is currently working with children and if that is the case, to consider whether the current employer should be informed.

### **Whistle-blowing**

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All staff and young people should be made aware of the school's whistle-blowing policy and feel confident to voice concerns about the attitude or actions of colleagues.

If a member of staff believes that a reported allegation or concern is not being dealt with appropriately by their organisation, they should report the matter to the LADO.

### **Flowchart for Management of Allegations and Timescales**

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It is in everyone's interest for cases to be dealt with expeditiously, fairly and thoroughly and for unnecessary delays to be avoided. The target timescales provided in the **flowchart** of the *Wirral Managing Allegations against Professional who work with Children Procedures* are realistic in most cases, but some cases will take longer because of their specific nature or complexity.