

## Managing Allegations Against Staff Policy

### Introduction

This policy has been developed in accordance with the My Online Schooling Safeguarding Policy, which states that we recognise that all adults, including temporary staff and volunteers, have a full and active part to play in protecting our pupils from harm, and that the child's welfare is our paramount concern.

This policy draws directly from the principles established by the Children Acts 1989 and 2004 and related national guidance (UK), including the [Keeping Children Safe in Education](#) (2022) guidance. This policy is not contractual, does not form part of any employee's contract of employment and we may amend it at any time; however, employees must follow it.

All staff believe that our school should provide a caring, positive, safe and stimulating environment that promotes the social, physical and moral development of each individual pupil.

My Online Schooling takes seriously its responsibility, under section 175 of the Education Act 2002, normally followed by schools, to safeguard and promote the welfare of our pupils. We will work together with other agencies, where necessary, to ensure adequate arrangements within our school to identify, assess, and support those who are suffering harm.

My Online Schooling recognises that it is possible for staff and contractors to behave in a way that might cause harm to the pupils and takes seriously any allegation received. Such allegations should be referred immediately to the DSL (and/or DDSL) to agree further action to be taken in respect of the pupil and staff member.

All school staff should take care not to place themselves in a vulnerable position with a child. All lessons and face-to-face interactions with pupils must be recorded, and the recording will be stored via cloud storage on the video conferencing platform.

We understand that a pupil may make an allegation against a member of staff. If such an allegation is made, or information is received which suggests that a person may be unsuitable to work with children, the member of staff receiving the allegation, or aware of the information, will immediately inform the Head of School and DSL (or the Executive Headteacher where an allegation is against the Head of School). If the allegation made to a member of staff concerns the Head of School, the person receiving the allegation will immediately inform the Executive Headteacher and DSL who will consult as identified above, without notifying the Head of School first.

Suspension of the member of staff against whom an allegation has been made needs careful consideration, and the Head of School will seek the advice of the DSL and

Executive Headteacher, and any necessary external agencies or government bodies in making this decision.

In the event of an allegation against the Head of School, the decision to suspend will be made by the Executive Headteacher with advice as above.

## Key Contacts

Designated Safeguarding Lead	Euan MacLean Director of Inclusion & Wellbeing, My Online Schooling safeguarding@myonlineschooling.com +44 (0)131 380 6016
Deputy Designated Safeguarding Lead (EMEA)	Laura Hendry Head of SEND, My Online Schooling safeguarding@myonlineschooling.com +44 (0)131 380 6016
Deputy Designated Safeguarding Lead (APAC)	Scarlett Campbell Teacher of Juniors safeguarding@myonlineschooling.com +44 (0)131 380 6016

## Section 1: allegations that may meet the harms threshold

This section applies to all cases in which it is alleged that a current member of staff, including a supply teacher, volunteer or contractor, has:

- Behaved in a way that has harmed a child, or may have harmed a child, and/or
- Possibly committed a criminal offence against or related to a child, and/or
- Behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children, and/or
- Behaved or may have behaved in a way that indicates they may not be suitable to work with children – this includes behaviour taking place both inside and outside of school

My Online Schooling will deal with any allegation of abuse quickly, in a fair and consistent way that provides effective child protection whilst supporting the individual who is the subject of the allegation.

A 'case manager' will lead any investigation. This will be the Designated Safeguarding Lead and Head of School, or the Executive Headteacher where the Head of School is the subject of the allegation. Where necessary, the Company will use an outside consultant to ensure impartiality. The case manager will be identified at the earliest opportunity.

Our procedures for dealing with allegations will be applied with common sense and judgement.

## **Suspension of the accused until the case is resolved**

Suspension of the perpetrator will be considered in cases where there is reason to suspect that a child or other children is/are at risk of harm, In such cases, we will suspend an individual if we have considered all other options available and there is no reasonable alternative. The Company may suspend an employee on full pay. Suspension is not a disciplinary penalty and carries no implication of guilt. Whilst on suspension an employee must be available for work or meetings as required during normal working hours. During a period of suspension passwords will be barred and if the employee has access to the computer system it will be denied.

Based on an assessment of risk, we will consider alternatives such as:

- Redeployment within the school so that the individual does not have direct contact with the child or children concerned
- Providing an alternative staff member to be present when the individual has contact with children
- Redeploying the individual to alternative work within in the school so that they do not have unsupervised contact with children
- Moving the child or children to classes where they will not come into contact with the individual, making it clear that this is not a punishment and parents/carers have been consulted

If in doubt, the case manager will seek views from appropriate authorities / bodies within the relevant country, as well as the police and children's social care where they have been involved.

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

The case manager should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unfounded, unsubstantiated, malicious, or false.

## **Definitions for outcomes of allegation investigations**

- **Victim:** although not everyone who has been subjected to abuse considers themselves a victim or would want to be described in this way, we may use this term in policies to describe a child who may have been harmed
- **Perpetrator:** this terminology is used because it is widely understood; as above, we understand the need for careful use of language when speaking to parties involved in an allegation or investigation
- **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, or to cause harm to the subject of the allegation
- **False:** there is sufficient evidence to disprove the allegation
- **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation (this does not imply guilt or innocence)
- **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made

## Procedure for dealing with allegations

In the event of an allegation that meets the criteria above, the case manager will conduct a thorough investigation, which may result in formal disciplinary action.

During the investigation, the case manager will take the following steps:

- Conduct basic enquiries to establish the facts to help determine whether there is any foundation to the allegation before carrying on with the steps below
- Discuss the allegation with the designated officer at the child's local authority. This is to consider the nature, content and context of the allegation and agree a course of action, including whether further enquiries are necessary to enable a decision on how to proceed, and whether it is necessary to involve the police and/or children's social care services. (The case manager may, on occasion, consider it necessary to involve the police before consulting the designated officer – for example, if the accused individual is deemed to be an immediate risk to children or there is evidence of a possible criminal offence. In such cases, the case manager will notify the designated officer as soon as practicably possible after contacting the police)
- Inform the accused individual of the concerns or allegations and likely course of action as soon as possible after speaking to the designated officer (and the police or children's social care services, where necessary). Where the police and/or children's social care services are involved, the case manager will only share such information with the individual as has been agreed with those agencies
- Where appropriate (in the circumstances described above), carefully consider whether alternative arrangements such as those outlined above should be put in place for the accused individual
- Where the case manager is concerned about the welfare of other children in the school community or the individual's family, they will discuss these concerns with the Designated Safeguarding Lead and make a risk assessment of the situation. If necessary, the Designated Safeguarding Lead may make a referral to children's social care
- **If immediate suspension is considered necessary**, agree and record the rationale for this with the designated officer. Written confirmation of the suspension will be provided to the individual facing the allegation or concern within 1 working day, and the individual will be given a named contact at the school and their contact details
- **If it is decided that no further action is to be taken** in regard to the subject of the allegation or concern, this decision will be recorded and the justification for it and agree with the designated officer what information will be put in writing to the individual and by whom, as well as what action should follow both in respect of the individual and those who made the initial allegation
- **If it is decided that further action is needed**, further steps will be taken in line with the below disciplinary procedure to initiate the appropriate action in school and/or liaise with the police and/or children's social care services as needed.

At all stages of the formal disciplinary procedure, you will:

- be given a right of reply to all and any allegations made against you BEFORE any decision or disciplinary action is taken
- be advised of the nature of any disciplinary action taken against you and the consequences of such action

- be advised of any improvement in conduct or performance required and over what period
- be accompanied by a support person to any disciplinary meeting as described above if so desired.

Disciplinary meetings will be conducted by your case manager.

At the meeting, you will be given the opportunity to respond and to put forward any defence or arguments you want. You may ask questions, present evidence, and call witnesses.

You must take all reasonable steps to attend the meeting. Where you are unable to attend more than one meeting the Company may, in certain circumstances, hold the meeting in your absence and make their decision based on the evidence available to them at the time.

Depending on the severity of the offence and considering all the circumstances the disciplinary action may take any one of the following forms. It is possible for serious matters that several stages in this procedure may be skipped.

### **Stage 1 – Informal Counselling**

Minor faults will be dealt with informally through informal counselling and training. However, in cases where informal discussion with the employee does not lead to an improvement in conduct or performance or where the matter is considered to be too serious to be classed as minor, for example, unauthorised absences, persistent poor timekeeping, substandard work performance, etc the following disciplinary procedure will be used. At all stages of the procedure, an investigation will be carried out.

### **Stage 2 - Verbal Warning**

A verbal warning will be issued if improvement does not result following informal counselling or for more serious breaches. You will be told of steps you must take to improve your conduct and if appropriate the time limit for improvement. This will be confirmed in writing and recorded on your file.

### **Stage 3 - Written Warning**

For more serious matters or where you have failed to meet the required standards after having been given a verbal warning, you may be given a written warning.

This will state the nature of the complaint, the required standards that must be met and where appropriate a time limit for improvement. It will also state that further disciplinary action will be followed if the required standards are not met.

### **Stage 4 - Final Written Warning**

For serious matters or where you have failed to reach the required standards after being warned you may be given a final written warning. This will state the nature of the complaint, the required standards to be met and where appropriate a time limit for improvement. It will also state that you will be dismissed if the standards are not

met or if there is further misconduct. One copy of which will be retained by you, and one placed on your file normally for a maximum of 12 months.

### **Stage 5 – Termination of Employment**

Where there has been Gross Misconduct (in which case the first 4 stages may be omitted) or where you have failed to meet the required standards after due warnings have been given to you, you may be dismissed. In extenuating circumstances, we may apply another sanction such as disciplinary transfer, disciplinary suspension without pay or demotion. This will be confirmed in writing. In case of gross misconduct, the dismissal will normally be without notice (or pay in lieu of notice).

**All substantiated allegations of misconduct which breach safeguarding and child protection are considered gross misconduct as such are considered so serious that the employee may be liable to instant dismissal.**

Throughout the investigation and disciplinary, My Online Schooling will ensure to:

- Provide effective support for the individuals involved, as outlined in the subsection below
- Inform the parents or carers of the child/children involved about the allegation as soon as possible if they do not already know (following agreement with children's social care services and/or the police, if applicable). The case manager will also inform the parents or carers of the requirement to maintain confidentiality about any allegations made against teachers (where this applies) while investigations are ongoing. Any parent or carer who wishes to have the confidentiality restrictions removed in respect of a teacher will be advised to seek legal advice
- Keep the parents or carers of the child/children involved informed of the progress of the case (only in relation to their child – no information will be shared regarding the staff member)
- Make a referral to the DBS / PVG where it is thought that the individual facing the allegation or concern has engaged in conduct that harmed or is likely to harm a child, or if the individual otherwise poses a risk of harm to a child
- If the school is made aware that an interim prohibition order is sanctioned in respect of an individual, we will immediately suspend that individual from teaching, pending the findings of the investigation by the Teaching Regulation Agency
- Where the police are involved, wherever possible the school will ask the police at the start of the investigation to obtain consent from the individuals involved to share their statements and evidence for use in the school's disciplinary process, should this be required at a later point

### **Supporting Those Involved**

At My Online Schooling, we strive to uphold our duty of care towards pupils and staff at all times. When an allegation is raised, pupils and staff should be treated with respect and support at all stages of the investigation.

This will be achieved by:

- Offering effective wellbeing support and / or counselling to the victim(s) in the first instance, for example by working with the Inclusion Team whilst maintaining a level of confidentiality, as appropriate
- Seeking wellbeing support by liaising with the family and local services of the victim, as appropriate
- Providing effective support for the individual facing the allegation or concern, including appointing a named representative to keep them informed of the progress of the case and considering what other support is appropriate. Examples of support may include referring to an Employee Assistance Program, seeking legal advice or any other appropriate action.

### **Additional considerations for all contracted staff**

If there are concerns or an allegation is made against someone **not** directly employed by the school, such as a guest or contracted external staff member, we will take the actions below in addition to our standard procedures.

- We will not decide to stop using an individual due to safeguarding concerns without finding out the facts and liaising with the relevant local authority to determine a suitable outcome
- We will involve the employer of the accused staff member fully, but the school will take the lead in collecting the necessary information and providing it to the relevant local authority, as required
- We will address issues such as information sharing, to ensure any previous concerns or allegations known to the employer of the accused staff member are taken into account (we will do this, for example, as part of the allegations management meeting or by liaising directly with the employer where necessary)

When using an agency or external employer, we will inform them of our process for managing allegations, and keep them updated about our policies as necessary, inviting the agency's HR manager or equivalent to meetings as appropriate.

### **Timescales**

We will deal with any allegation as quickly and effectively as possible and will endeavour to comply with the following timescales, where reasonably practicable:

- Any cases where it is clear immediately that the allegation is unsubstantiated or malicious should be resolved within **10 working days**
- If the nature of an allegation does not require formal disciplinary action, appropriate action should be taken within **3 working days**
- If a disciplinary hearing is required and can be held without further investigation, this should be held within **15 working days**

However, these are objectives only and where they are not met, we will endeavour to take the required action as soon as possible thereafter.

## **Specific actions**

### **Action following a criminal investigation or prosecution**

The case manager will discuss with the relevant local authority's designated officer whether any further action, including disciplinary action, is appropriate and, if so, how to proceed, taking into account information provided by the police and/or children's social care services.

### **Conclusion of a case where the allegation is substantiated**

If the allegation is substantiated and the individual is dismissed or the school ceases to use their services, or the individual resigns or otherwise ceases to provide their services, the school will make a referral to the DBS / PVG for consideration of whether inclusion on the barred lists is required.

In line with advice from the Department for Education, My Online Schooling will not use settlement agreements where there are allegations that indicate the person is a risk or poses a risk of harm to children or deemed not suitable to work with children. Such an agreement will not prevent a thorough police and/or school or college investigation where that is appropriate.

If the individual concerned is a member of teaching staff, the school will consider whether to refer the matter to the Teaching Regulation Agency to prohibit the individual from teaching.

### **Individuals returning to work after suspension**

If it is decided on the conclusion of a case that an individual who has been suspended can return to work, the case manager will consider how best to facilitate this.

The case manager will also consider how best to manage the individual's contact with the child or children who made the allegation, if they are still attending the school.

### **Unsubstantiated, unfounded, false or malicious reports**

If a report is:

- Determined to be unsubstantiated, unfounded, false or malicious, the DSL will consider the appropriate next steps. If they consider that the child and/or person who made the allegation is in need of help, or the allegation may have been a cry for help, a referral to children's social care may be appropriate
- Shown to be deliberately invented, or malicious, the school will consider whether any disciplinary action is appropriate against the individual(s) who made the report

### **Unsubstantiated, unfounded, false or malicious allegations**

If an allegation is:

- Determined to be unsubstantiated, unfounded, false or malicious, the relevant local authority and case manager will consider the appropriate next steps. If they consider that the child and/or person who made the allegation is in need of help, or the allegation may have been a cry for help, a referral to children's social care may be appropriate



- Shown to be deliberately invented, or malicious, the school will consider whether any disciplinary action is appropriate against the individual(s) who made the allegation

### **Confidentiality and information sharing**

The school will make every effort to ensure confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.

The case manager will take advice from the relevant local authority, police and children's social care services, as appropriate, to agree:

- Who needs to know about the allegation and which information should be shared
- How to manage speculation, leaks and gossip, including how to make parents or carers of a child/children involved aware of their obligations with respect to confidentiality
- What, if any, information can be reasonably given to the wider community to reduce speculation
- How to manage press interest if / when it arises

### **Record-keeping**

The case manager will maintain clear records about any case where the allegation or concern meets the criteria above and store them on the individual's confidential personnel file for the duration of the case.

The records of any allegation that, following an investigation, is found to be malicious or false will be deleted from the individual's personnel file (unless the individual consents for the records to be retained on the file).

For all other allegations (which are not found to be malicious or false), the following information will be kept on the file of the individual concerned:

- A clear and comprehensive summary of the allegation
- Details of how the allegation was followed up and resolved
- Notes of any action taken, decisions reached and the outcome
- A declaration on whether the information will be referred to in any future reference

In these cases, the school will provide a copy to the individual, in agreement with the relevant local children's social care or the police (as appropriate).

Where records contain information about allegations of sexual abuse, we will preserve these for the Independent Inquiry into Child Sexual Abuse (IICSA) or relevant international equivalent, for the term of the inquiry. We will retain all other records at least until the individual has reached normal pension age, or for 10 years from the date of the allegation (if that is longer).

## References

When providing employer references, we will:

- Not refer to any allegation that has been found to be false, unfounded, unsubstantiated or malicious, or any repeated allegations which have all been found to be false, unfounded, unsubstantiated or malicious
- Include substantiated allegations, provided that the information is factual and does not include opinions

## Learning lessons

After any cases, whether the allegations are found to be substantiated or not, the case manager and / or DSL and / or Executive Headteacher will review the circumstances of the case (with the relevant local authority's designated officer, where allegations are substantiated) to determine whether there are any improvements that we can make to the school's procedures or practice to help prevent similar events in the future.

This will include consideration of (as applicable):

- Any issues arising from the decision to suspend the member of staff
- The duration of the suspension
- Whether or not the suspension was justified
- The use of suspension when the individual is subsequently reinstated
- How future investigations of a similar nature should be carried out

For all cases, the case manager will consider the facts and determine whether any improvements can be made. For example, where a false allegation has been made, risk assessments and risk management could focus on preventing circumstances that put staff members at risk of vulnerability.

## Non-recent allegations

Abuse can always be reported, no matter how long ago it happened.

We will report any non-recent allegations made by a child to their local authority.

Where an adult makes an allegation to the school that they were abused as a child, we will advise the individual to report the allegation to the police and offer appropriate support from HR.

## Section 2: concerns that do not meet the harm threshold

This section applies to all concerns (including allegations) about members of staff, including external employees, volunteers or contractors, which do not meet the harm threshold set out in section 1 above.

Concerns may arise through, for example:

- Suspicion
- Specific or non-specific complaint
- Disclosure made by a child, parent or other adult within or outside the school
- Pre-employment vetting checks

We recognise the importance of responding to and dealing with any concerns in a timely manner to safeguard the welfare of children.

## **Definition of low-level concerns**

The term 'low-level' concern is any concern, no matter how small, that an adult working in (or on behalf of) the school may have acted in a way that:

- Is inconsistent with My Online Schooling's professional code of conduct, including inappropriate conduct outside of work, and
- Does not meet the allegations threshold or is otherwise not considered serious enough to consider a referral to the designated officer at the local authority

Low-level concerns are part of a spectrum of behaviour. This includes:

- inadvertent or thoughtless behaviour
- behaviour that might be considered inappropriate depending on the circumstances
- behaviour which is intended to enable abuse.

Examples of such behaviour could include, but are not limited to:

- Being overly friendly with children
- Displaying favouritism
- Using children's photographs, recordings or any other information for use not approved by the family or My Online Schooling
- Engaging with a child on a one-to-one basis outside of the school's learning management system, Canvas, or on Zoom without recording the session
- Using inappropriate sexualised, intimidating or offensive language

## **Sharing low-level concerns**

We recognise the importance of creating a culture of openness, trust and transparency to encourage all staff to share low-level concerns so that they can be addressed quickly and appropriately.

My Online Schooling create this culture by:

- Ensuring staff are clear about what appropriate behaviour is, and are confident in distinguishing expected and appropriate behaviour from concerning, problematic or inappropriate behaviour, in themselves and others
- Empowering staff to share any low-level concerns, either to the DSL
- Maintaining an open door policy with Heads of School to ensure staff are welcomed to discuss concerns at any time
- Empowering staff to self-refer
- Addressing unprofessional behaviour and supporting the individual to correct such behaviours at an early stage
- Providing a responsive, sensitive and proportionate handling of concerns when they are raised
- Proactively working to identify any weakness in the school's safeguarding system

## Responding to low-level concerns

If the concern is raised via a third party, the DSL will collect evidence where necessary by speaking:

- Directly to the person who raised the concern, unless it has been raised anonymously
- To the individual involved and any witnesses

The DSL will use the information collected to categorise the type of behaviour and determine any further action, in line with the school's Teacher Professional Expectations policy. Where appropriate, a Performance Improvement Plan will be implemented.

The DSL may be required to liaise with the Executive Headteacher, to decide on any further action, where allegations do not involve the Executive Headteacher.

## Record keeping

All low-level concerns will be documented. In addition to details of the concern raised, records will include the context in which the concern arose, any action taken and the rationale for decisions and action taken.

Records will be:

- Kept confidential, held securely and comply with the DPA 2018 and UK GDPR
- Reviewed so that potential patterns of concerning, problematic or inappropriate behaviour can be identified. Where a pattern of such behaviour is identified, we will decide on a course of action, either through our disciplinary procedures or, where a pattern of behaviour moves from a concern to meeting the harms threshold (as described in section 1 of this policy), we will refer it to the designated officer at the relevant local authority
- Retained at least until the individual leaves employment at the school

Where a low-level concern relates to an external staff member, we will notify the individual's employer, so that any potential patterns of inappropriate behaviour can be identified.

## Policy details:

<b>Policy written by</b>	Emily Peters (DHT/DSL)
<b>Policy reviewed by</b>	Euan MacLean (Principal/DDSL) Kathryn Duncanson (HR)
<b>Date written</b>	May 2022
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