



Wychwood School

## Management of Allegations Against Staff Policy

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## 1. PRINCIPLES

### **Context**

This policy is supplementary to and should be read in conjunction with the Wychwood, Oxford Safeguarding Policy.

### **Policy and Procedures.**

The Directors of Wychwood, Oxford recognise their statutory responsibility to make sure that appropriate arrangements are in place to safeguard and promote the welfare of pupils: Section 175 of the Education Act 2002.

This policy concerns the procedures to be followed in all situations where it is alleged that a person who works with pupils at Wychwood, Oxford has:

- Behaved in a way which has harmed a pupil, or may have harmed a pupil
- Possibly committed a criminal offence against or related to a pupil
- Behaved towards a pupil or pupils in a way which indicates that he/she is unsuitable to work with pupils.

Such conduct is referred to below as “inappropriate behaviour”.

The allegations may be historical or relate to the person’s current behaviour at work, at home or in another setting. All staff and directors should make themselves aware of the content of this policy and should understand what they should do if they receive an allegation against a member of staff or they themselves have concerns about a member of staff. This policy applies to all Wychwood, Oxford staff (including temporary & supply staff) and directors and will be reviewed annually.

### **Principles**

Wychwood, Oxford has a responsibility for safeguarding and promoting the welfare of its pupils and for ensuring that they are protected from harm. Wychwood, Oxford will not accept inappropriate behaviour towards pupils, staff or Directors and will ensure that any concerns or allegations of impropriety are dealt with in a timely manner, fairly and sensitively.

All allegations of abuse of pupils by those who work with them must be taken seriously.

All staff disclosing information regarding inappropriate behaviour by colleagues will be listened to and supported.

All staff have a duty of care to ensure that pupils are safe and protected and to ensure that if there are any concerns relating to the welfare or safety of a pupil, the Oxfordshire Safeguarding Children’s Board (OSCB) procedures are followed. Further details can be found at [www.oscb.org.uk](http://www.oscb.org.uk)

Wychwood, Oxford ensures that child protection and safeguarding training is available to all staff.

It is essential that any allegation of inappropriate behaviour made against a member of staff or a director is dealt with fairly, quickly and consistently, in a way that provides effective protection for the pupil and at the same time supports the person who is the subject of the allegation. If it is decided that the allegation is not patently false and is not the subject of a criminal investigation Wychwood, Oxford Staff Disciplinary Procedure should be followed.

It is essential that parents or carers of those involved in the allegation are kept informed of the progress of the case and told the outcome where there is not a criminal prosecution, including the outcome of the disciplinary process. However the deliberations of a disciplinary hearing and the information taken into account when arriving at a decision should not be disclosed. The alleged victim should not be asked to attend as a witness at the hearing.

## **2. CONTEXT OF THE ALLEGATION**

Allegations of inappropriate behaviour may be made in a number of ways:

- direct disclosure by pupils
- indirect disclosure; i.e. through written work or art work
- complaints from parents/carer.
- complaints to Children's Social Care from parents/carers
- complaints to the police from parents
- reports by other colleagues

The context in which an incident occurs is crucial to understanding the incident and the definition to be ascribed to it. In order to differentiate between incidents which are of a child protection nature and those which are more properly dealt with as conduct or competency issues or to identify those allegations which are vexatious, the allegation must be considered with regard to the standards that are normally expected of the member of staff and the circumstances in which the alleged incident occurred.

Any physical contact with pupils could be open to misinterpretation. Perceptions and language again can present very different views of the same incident, particularly where there is or has been earlier disagreement or challenge between the pupil and the member of staff concerned.

There may be up to four strands in the consideration of an allegation;

- a police investigation of a possible criminal offence
- enquiries and assessment by Children's Social Care as to whether a pupil is in need of protection or in need of services
- consideration by Wychwood, Oxford of disciplinary action in respect of the individual
- consideration of complaints of poor practice in line with Wychwood, Oxford complaints procedure

The fact that a member of staff tenders his or her resignation, or ceases to provide their services, must not prevent an allegation being followed up in accordance with these

procedures. It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of pupils.

“Settlement agreements”, by which a person agrees to resign and the employer agrees not to pursue disciplinary action may not be used so as to prevent an investigation of an allegation of inappropriate behaviour. In any case, such an agreement would not prevent a police investigation where that is appropriate, nor can it override Wychwood, Oxford’s statutory duty to make a referral to the Disclosure and Barring Service where circumstances dictate.

### 3. RESPONSIBILITIES

The head who is also the Designated Safeguarding Lead (DSL) has overall strategic responsibility for ensuring that Wychwood, Oxford operates procedures for dealing with allegations in accordance with the most recent Working Together to Safeguard Children, and the most recent Keeping Children Safe in Education and for liaising with the OSCB and other agencies as required. In their absence the Deputy head Pastoral who is also Deputy Designated Safeguarding Lead (DDSL) will take over. S/he must

- ensure organisational procedures are in place for managing allegations which are compliant with the MASH (Multi-Agency Safeguarding Hub), OSCB procedures, Working Together to Safeguard Children and KCSIE.
- ensure organisational disciplinary procedures provide a framework for the management of individuals who are deemed to be unsuitable to work with pupils.
- ensure effective reporting and recording mechanisms are in place which allow for the tracking of allegations through to the final outcome.
- provide information to the Local Authority Designated Officer (LADO), the MASH and OSCB as required.
- provide advice and guidance to managers and members of staff to ensure the procedure for managing allegations is followed correctly
- support the investigation in meetings as necessary
- review the circumstances of cases (once concluded) to ensure any organisational lessons are learnt and implemented so that a safe environment is continually promoted.

The head will

- Consult with LADO **as soon as** the allegation is made.
- Ensure allegations are reported in an appropriate and timely manner.
- Adhere to time limits in the procedure
- Ensure the provision of ongoing support to the member of staff and the parents/carers
- Co-operate with any safeguarding investigation.

The LADO (Local Authority Designated Officer) will

- liaise with and offer advice to the head, senior managers, directors, police, education and Children’s Social Care and all other relevant agencies while checking the progress of any investigation

- maintain records relating to allegations against staff and work in partnership with Government Office Safeguarding Advisors
  - Ensure allegations are dealt with in an appropriate and timely manner
  - decide whether child protection procedures need to be applied
  - follow the appropriate procedure for the case
  - liaise with agencies as necessary

The member of staff will

- co-operate with management during the procedure
- be available for meetings where recognised trade union representatives / nominated work colleague may support and represent a member of staff during the procedure. The work colleague will be a member of Wychwood, Oxford staff, normally from the same work area.

#### **4. PROCEDURE**

##### **Allegations made to Wychwood, Oxford**

The allegation should be reported to the head immediately. If the allegation is about the head, it should be reported to the nominated director. All allegations, should be discussed with the LADO for the OSCB within one day of receipt of the allegation.

##### **Allegations made to the Police or Children's Social Care**

If an allegation is made to the Police, or Children's Social Care, the person who receives it should report it to the LADO without delay.

##### **Initial Action**

The head, in consultation with the LADO, must consider the allegation and determine the appropriate course of further action. It must be recognised that establishing whether an allegation warrants further investigation is not the same thing as deciding whether the allegation is well founded.

The LADO will consider the appropriateness of discussing the case with the Police or Children's Social Care as part of the consultation process.

The LADO is likely to propose four possible options:

- a) Where the pupil has suffered, is suffering or is likely to suffer significant harm, an immediate referral to the joint agencies (Police and Children's Social Care) under the local Child Protection Policy.
- b) Further enquiries are required to gather more information and/or clarify certain points.
- c) The allegation may have been prompted by inappropriate behaviour by a member of staff but a child protection issue does not arise. In this case there may be a need to investigate further and, in conjunction with the head, decide whether action should be taken in accordance with Wychwood, Oxford disciplinary procedures.

d) The allegation was false or unfounded.

### **Suspension**

The issue of whether to suspend a member of staff, who is the subject of an allegation, should be considered at this stage. The decision to suspend ultimately rests with the head in conjunction with the LADO's advice.

A risk assessment should be carried out for each individual case to determine whether the member of staff should be suspended. The assessment should take into account the context of the allegation and background information in relation to the member of staff. It should also take into account whether a temporary transfer or period of paid leave is appropriate as an alternative to suspension. The assessment must be recorded and a copy kept on file.

The following situations will require immediate referral to child protection:

- where the pupil has suffered, is suffering, or is likely to suffer significant or serious harm.
- where the pupil alleges that a criminal offence has been committed.
- any allegation of a sexual nature.

The head should be aware that some other complaints may also be regarded as child protection issues and therefore each complaint should be carefully considered in consultation with the LADO before taking any action.

Where allegations of the above are referred to Children's Social Care, subsequent action will be in accordance with the OSCB procedures.

### **Cases Where a Crime may have been Committed**

If there is no cause to suspect that Significant Harm is an issue, but a criminal offence might have been committed, the LADO should immediately inform the Police and convene a similar discussion to decide whether a police investigation is needed. That discussion should also involve Wychwood, Oxford.

Where the involvement of Children's Social Care is not required as the pupil is not assessed to be at risk of Significant Harm but a Police investigation continues, the LADO should agree with the Police, Wychwood, Oxford and any other agency involved with the child the nature of the allegation and how this must be addressed.

This discussion must take place as soon as possible after the referral and must consider how to progress enquiries e.g. a criminal process parallel with a disciplinary process or whether disciplinary actions needs to be suspended until Police enquiries/prosecution are completed.

If the Police and/or the Crown Prosecution Service (CPS) decide not to charge the individual with an offence, or decide to administer a caution, or the person is acquitted by a Court, the Police should pass all information they have which may be relevant to a disciplinary case to

Wychwood, Oxford without delay. In those circumstances, the head should deal with the case in consultation with the LADO.

If the person is convicted of an offence, the Police should also inform the employer straight away so that appropriate action can be taken.

### **Strategy Meeting**

A Strategy Meeting will be convened within one working day of the referral being made with the LADO and all relevant personnel including, where appropriate, the Head. The meeting is convened in order to share information and participate in the planning of any enquiries. The strategy meeting will be conducted in accordance with OSCB procedures.

#### The Purpose of the Strategy Meeting

- consider the risk to the pupil and other pupils
- share all relevant information about the person who is the subject of the allegation and about the alleged victim
- determine the need for investigation and by whom
- plan the investigation/enquiries and set timescales for tasks to be undertaken
- consider whether any other children are affected by the allegations e.g. the person's own children, grandchildren or other children in the agency setting such as children placed with foster carers, childminders, a youth club etc.
- ensure that the person who is the subject of the allegation is kept informed and supported
- decide how regular information and support will be provided to the child and family and by whom
- plan all interviews and agree who should undertake them so that there is no confusion between a criminal investigation, Section 47 Enquiry and disciplinary processes
- consider the need to inform relevant parties
- jointly consider how to manage any media interest
- consider whether the circumstances warrant the person who is subject to the allegation being suspended from contact with pupils, so as to inform Wychwood, Oxford's decision about this issue; this may change as the investigation progresses and should be reviewed regularly
- if the allegation is against a Director, a temporary member of staff or a supply teacher, the appropriate course of action needs to be considered

Attendance will be determined by OSCB procedures but will usually include representatives from Children's Social Care. The member of staff who is the subject of the allegation will not be invited to attend the meeting; however the strategy meeting will agree when and how the member of staff will be informed.

#### Communication following the strategy meeting

The following should be informed of the outcome of the investigation:

- The pupil making the allegation and their parent/carer of the likely course of action. They must also be informed that the matter is confidential and must not be discussed
- The member of staff against whom the allegation has been made. This should include the likely course of action. A record should be kept on the individual's personal file
- The Chairman of Directors should be informed of the likely course of action.

### **Investigating the allegation**

The strategy meeting will determine the nature of the investigation. There could be three ways forward and more than one may be applicable at any one time:

- there are child protection issues involved and there needs to be an investigation under section 47 of the Children Act
- there is a police investigation regarding a possible criminal act
- there is a need for a disciplinary investigation. In this case the child protection investigation should take precedence. Any disciplinary investigation should not commence without the consent of the Police and Children's Social Care. Neither should a disciplinary investigation be commenced until the outcome of a child protection investigation is known, unless there are exceptional circumstances. The disciplinary investigation should follow Wychwood, Oxford disciplinary policy and procedure, commencing at whatever stage is deemed appropriate in the circumstances.

### **Action following initial consideration**

If it is decided that the allegation does not involve a potential criminal investigation, the head will decide how to deal with it as there may be elements of an allegation which clearly suggest a breach of standards of behaviour or propriety, or which pose a risk to the welfare of pupils, even where no criminal activity is identified. Following consultation with the LADO, this could include reconvening a strategy discussion.

Consideration should be given to:

- the context in which the allegation occurred and whether this provides further insight which may mitigate risk
- the type of activity the individual member of staff is expected to undertake.
- the level of access to pupils this provides
- the indicative risks presented by the nature of the allegation, and what, if any, mechanisms exist to reduce or manage the risk.
- the internal investigation may determine that disciplinary action is not necessary and may exonerate the individual concerned.

A clear and comprehensive summary of the allegation made, details of how the allegation was followed up and resolved and a note of any actions taken and decisions reached should be placed on the individual's confidential personnel file and a copy provided to the member of staff concerned.



Pupils may be asked to write a summary of the incident. This must be signed and dated and copies taken for the pupils' files. The originals should be available to the investigators.

### **Monitoring progress**

The LADO should regularly monitor the progress of cases, either via review Strategy Meetings, or by liaising with the Police and/or Children's Social Care colleagues or Wychwood, Oxford, as appropriate.

### **Keeping records**

It is important that a clear and comprehensive record of any allegation is made even if police/disciplinary action is not taken or proven. This should include details of the allegation, how the allegation was followed up and resolved and a note of any action taken, including any sanctions imposed. The record should be kept on the member of staff's personnel file. The purpose of this record is to enable accurate information to be given in response to any future reference request if the individual leaves Wychwood, Oxford. It is also important that accurate and detailed information is held in the event that the Disclosure and Barring Service (DBS) requests further information. A comprehensive record of all allegations will provide clarification in cases where a future DBS disclosure reveals information from the police about an allegation which did not result in a criminal conviction. The record should be retained for ten years.

### **Confidentiality**

Confidentiality should be maintained when an allegation is made. However there may be a need to share information with relevant agencies, for example at a strategy meeting on a need to know basis. Any enquiries from the press should be directed to the head, unless it is a Freedom of Information or Data Protection request in which case the head and the Chair of Directors should be contacted.

### **Action following conclusion of enquiries**

The Police or the Crown Prosecution Service (CPS) should inform the employer and LADO straightaway when a criminal investigation and any subsequent trial are complete, or if it is decided to close an investigation without charge, or not to prosecute after the person has been charged.

In all circumstances, the LADO should discuss with Wychwood School what further action, including disciplinary action, is appropriate and agree how to proceed. The information provided by the Police and/or Children's Social Care should form the basis of further action.

If an allegation is substantiated and the person is dismissed or Wychwood, Oxford ceases to use the person's services or the person resigns, action on conclusion of a case should include consideration of whether a referral to the Disclosure and Barring Service (DBS) for inclusion on the PoCA List (Protection of Children Act 1999) or the Barred List (formerly List 99) is required or advisable, and the form and content of such a referral.

If an investigation concludes that an individual satisfies any of the criteria under which he/she could be barred or considered for barring, such as a specified offence against a child or young person, or conduct which endangers a child or young person, Wychwood, Oxford

has a legal obligation to make a referral to the DBS which could result in the member of staff being barred from working with children and young people.

The DBS may consider it appropriate for the individual to be included in a barred list.

If the person is subject to registration or regulation by a professional body or regulator, the LADO should advise on whether a referral to that body is appropriate.

If it is decided that a person who has been suspended from work can return, the head must consider how best to facilitate that return, including consideration as to how the person's contact with the pupil(s) who made the allegation can best be managed if they are still in Wychwood, Oxford.

### **Action to be taken in respect of false allegations**

If an allegation made by a pupil is proved to be false and/or malicious, action should be taken to determine whether the person who made the allegation is in need of services or may have been abused by someone else.

In the case of a pupil deliberately inventing or making a malicious allegation, the head should consider taking action in accordance with Wychwood, Oxford Behaviour and Discipline Policy.

If it is clear to the head and the LADO that the allegation is demonstrably false or unfounded the member of staff should be informed orally and in writing of the allegation, that it is without foundation and that no further action will be taken. Where appropriate, and if requested, support should be offered, which could include counselling services. If an allegation made by a member of staff is proved to be false and/or malicious, an investigation should take place in accordance with Wychwood, Oxford Staff Disciplinary Procedure. The Police may also consider taking action against the individual making the allegation.

### **Learning Lessons**

Where an allegation has been made against a member of staff, lessons can be learned whether the allegations are proven or not. At the conclusion of a case, relevant parties should discuss what can be learned and therefore lead to improved practice, either to Wychwood, Oxford's procedures or to help prevent similar events in the future. The LADO and the head should review the case.

### **Information Sharing**

In a strategy meeting or initial evaluation of the case the agencies concerned must share all relevant information they have about the person who is the subject of an allegation, and about the alleged victim. Wychwood, Oxford staff attending the strategy meeting should be prepared with the appropriate information – e.g. full name, address, when DBS check was completed, start date, involvement in youth activities, children of their own and any other information that could be helpful.

As per OSCB procedures the police should obtain consent from the individuals concerned to share the statements and evidence they obtain with Wychwood, Oxford for disciplinary purposes. This should be done as their investigation proceeds rather than after it has concluded. This will enable the police to share relevant information without delay at the

conclusion of their investigation or any court case. Children's Social Care should adopt a similar procedure when making enquiries to determine whether the pupil named in the allegation is in need of protection or services so that any information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to Wychwood, Oxford without delay.

## 5. POLICY REVIEW

This policy will be kept under review in order to keep it in line with relevant legislation.

### APPENDIX 1

#### Definitions

Significant Harm: this is the threshold where compulsory Social Care intervention must take place. This was introduced by the Children Act 1989 and is defined by the Law Commission as: "Harm as a concept should be taken to include not only ill-treatment (including sexual abuse and forms of ill treatment that are not physical) but also the impairment of physical or mental health and the impairment of physical, emotional, social or behaviour development"

Abuse.

Abuse can consist of physical, sexual, neglect, emotional and/or domestic forms. The definitions of abuse are below.

Types of abuse

#### 1. Physical abuse

This may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning or suffocating, or otherwise causing physical harm to a child. Physical harm may also be caused when a parent or carer fabricates the symptoms of, or deliberately induces illness in a child.

#### 2. Sexual abuse

This involves forcing or enticing a child or young person to take part in sexual activities, not necessarily involving a high level of violence, whether or not the child is aware of what is happening. The activities may involve physical contact, including assault by penetration (for example, rape or oral sex) or non-penetrative acts such as masturbation, kissing, rubbing and touching outside of clothing. They may also include non-contact activities, such as involving children in looking at, or in the production of, sexual images, watching sexual activities, encouraging children to behave in sexually inappropriate ways, or grooming a child in preparation for abuse (including via the internet). Sexual abuse is not solely perpetrated by adult males. Women can also commit acts of sexual abuse, as can other children.

#### 3. Neglect

Neglect is the **persistent failure** to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health or development. Neglect may occur during pregnancy as a result of maternal substance abuse. Once a child is born, neglect may involve a parent or carer failing to:

- provide adequate food, clothing and shelter (including exclusion from home or abandonment)

- protect a child from physical and emotional harm or danger
- ensure adequate supervision (including the use of inadequate care-givers)
- ensure access to appropriate medical care or treatment.

It may also include neglect of, or unresponsiveness to, a child's basic emotional needs

#### 4. Emotional abuse

Emotional abuse is the **persistent** emotional maltreatment of a child such as to cause severe and persistent adverse effects on the child's emotional development.

It may involve conveying to children that they are worthless or unloved, inadequate, or valued only insofar as they meet the needs of another person. It may include not giving the child opportunities to express their views, deliberately silencing them or 'making fun' of what they say or how they communicate. It may feature age or developmentally inappropriate expectations being imposed on children. These may include interactions that are beyond the child's developmental capability, as well as overprotection and limitation of exploration and learning, or preventing the child participating in normal social interaction. It may involve seeing or hearing the ill-treatment of another. It may involve serious bullying (including cyberbullying), causing children frequently to feel frightened or in danger, or the exploitation or corruption of children.

Some level of emotional abuse is involved in all types of maltreatment of a child, though it may occur alone.

#### 5. Domestic Abuse

Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those **aged 16 or over** who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass but is not limited to the following types of abuse: psychological; physical; sexual; financial or emotional.

### **Working Together To Safeguard Children**

#### **Positions of Trust**

Those working with children and young people should understand that they are in positions of power and trust in relation to these groups. There is potential for exploitation and harm to children and young people and employees have a responsibility to ensure that an unequal balance of power is not used for personal advantage or gratification. Employees should always maintain professional boundaries and avoid behaviour which might be misinterpreted by others.

### **APPENDIX 2**

#### **HANDLING DISCLOSURE FROM CHILDREN**

- always stop and listen
- never make a promise
- keep calm, don't panic, and don't appear shocked or angry
- do not ask leading questions

- avoid making judgements
- avoid criticising the alleged perpetrator
- make brief notes
- tell the child they have done the right thing by telling you
- never attempt to carry out an investigation
- report the incident to the Designated Safeguarding Lead (the Head)
- protect the child
- recognise you may need personal support.

### **APPENDIX 3**

#### **INFORMATION GUIDE FOR EMPLOYEES FACING ALLEGATIONS**

The aim of this information guide is to explain the processes involved, and the support and guidance available, if it is alleged that that you have

- harmed a pupil or put a child at risk of harm, or
- committed a criminal act toward a pupil, or
- behaved in a way that raises concern about your suitability to work with children or young people.

#### 1. Initial Action

As soon as possible after the allegation is made, the head as the Designated Member of Staff should consult the Local Authority Designated Officer (“LADO”) to discuss the next action, taking advice from Social Care and Police as needed. Police may advise that you are not told about the allegation immediately.

The Head’s decision in consultation with the LADO will be one, or a combination of the following:

- a) The pupil is alleged to have suffered, or is likely to suffer significant harm - which requires immediate referral to Social Care at the MASH.
- b) A criminal offence is alleged - which requires referral to Social Care at the MASH and Police.
- c) The allegation represents poor or inappropriate behaviour - which should be considered under Wychwood, Oxford disciplinary and/or capability procedures.
- d) The allegation is clearly and demonstrably without foundation and no further action will be taken.

If the conclusion of the initial discussions are a) or b) a Strategy Meeting should take place involving as appropriate the Police, Social Care, the head and the LADO. You will not be invited. The discussion will focus on the needs of the pupil(s) who may be at risk. It will determine what action should be taken regarding further investigation, but it is not part of any disciplinary procedures.

If the initial discussions conclude the situation is as outlined in c): an investigation will be initiated under Wychwood, Oxford’s disciplinary and/or capability procedures.

If the conclusion is as outlined in d) you should be told orally and in writing that the allegation is without foundation, and that no further action will be taken.

#### 2. Types of Possible Investigation

- child protection enquiries by Social Care
- criminal Investigation by Police
- disciplinary/capability investigation by Wychwood, Oxford

A disciplinary investigation will usually be held in abeyance until external agency investigations are complete, unless prior agreement is reached. Whilst these investigations should be conducted as speedily as possible, they should also be balanced against the need to be thorough and fair, in line with natural justice. Statements taken in external investigations could be used in subsequent disciplinary proceedings.