



## Education

# Managing Allegations Against Staff Policy

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### Revision Log (last 5 changes)

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May 15	1.0	Reviewed and Reformatted for new Staff Portal
April 16	1.1	Reviewed after one year

# Managing Allegations Against Staff Policy

The Leigh Academies Trust includes the following elements - Trust Executive, academies, additional educational provisions, professional services, and Trustees/Directors/Governors. Everyone working in whatever capacity for or within the Leigh Academies Trust is required to follow this policy.

This policy will be reviewed annually with the Leigh Academies Trust Director/Governor with responsibility for safeguarding.

Leigh Academies Trust will take appropriate action to ensure that an investigation conducted under this policy will not be confused with any statutory investigation undertaken by Children's Social Care or the police. Internal management investigations should only be pursued once the Children's Social Care and police have concluded their involvement or it has been deemed unnecessary to refer the matter to social care at the initial consultation with the local authority's Children's Safeguarding Team due to the allegation not reaching the threshold of abuse as defined by the Department of Health. In exceptional circumstances, it may be possible for a statutory investigation and an internal investigation to run concurrently, but this should only be in the most severe of cases and with the prior agreement of the agencies involved.

This document has been informed by a range of documents, including:

- DfE guidance (2012): 'Dealing with Allegations of Abuse against Teachers and Other Staff';
- Appendix 5: 'Working Together to Safeguard Children' (2010);
- The Children Acts 1989 and 2004;
- Education Act 2002 (Sections 141F, 141G, 141H3, 157 and 175);
- National Employers' Organisation for School Teachers (NEOST) Guidance as referenced in Education Employers Bulletin No: 467.

This Policy has been agreed by Leigh Academies Trust and the following trade unions: NUT, NAHT, SHA, NASUWT, ATL, UNISON and GMB.

Employees of the Leigh Academies Trust must be aware that the Sexual Offences Act 2003 now makes it an offence for those in a position of trust to have a sexual relationship with a young person between the ages of 16 and 18 years who is currently being cared for or educated by the individual.

## 1. Child Protection Procedure

- 1.1. The Leigh Academies Trust has a Safeguarding Policy and associated procedures that are ratified annually. These are available to any member of staff, on request or via the staff portal. Information outlining the principles of child protection, definitions of abuse, powers of statutory agencies and roles and responsibilities of multi-agency staff within the children's workforce can be accessed from the Kent Safeguarding Children Board website.
- 1.2. Employees working within Leigh Academies Trust have a statutory responsibility to report all allegations of child abuse and to alert others, where appropriate, if they suspect that child abuse may have occurred. The specific arrangements for reporting such concerns are set out in detail in Section 4 of this policy. A referral to Social Services will ensure that the statutory agencies can fulfil their child-protection responsibilities.

- 1.3. If an allegation of abuse is made against a member of staff, immediate consultation is required with the local authority officer who carried out the operational Area Safeguarding Advisor (ASA) function. This consultation must take place prior to any form of investigation being undertaken by Leigh Academies Trust. Any allegation against an employee should lead to careful consideration of the possibility of abuse and of a referral of any concerns being made to the statutory agencies, if it is considered that the threshold of significant harm has been reached and a person who works with children 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 that s/he is unsuitable to work with children.
- 1.4. It is the responsibility of the Chief Executive and all Principals to ensure that all employees are aware of their responsibility to report any allegation or possible concern of a child-protection nature. Failure to report may (a) put a child at risk and (b) imply a breach of the employee's contractual duty. Staff must be aware of this policy, understand their responsibilities and know where in the school/service a copy of the policy is to be found.
- 1.5. A child who reports that he/she may have been abused by a Leigh Academies Trust employee must be carefully listened to in all circumstances. 'Listened to' means just that; on no account should suggestions be made to a child regarding alternative explanations for his/her worries; neither should any member of staff attempt to question the child as part of any investigation, as this could lead to primary evidence for any future prosecution being compromised.
- 1.6. Staff cannot promise total confidentiality to pupils who disclose allegations. Staff should make this clear to children who approach them, whilst also offering reassurance that they have a right to be heard and that their allegation will be taken seriously.
- 1.7. All staff of Leigh Academies Trust have a duty to assist the statutory child-protection investigation agencies by ensuring that any possible allegation or concern is reported to an appropriate person and by co-operating with any investigative process, if/when required.
- 1.8. All staff of Leigh Academies Trust must be aware of the need to avoid impeding an investigation - e.g., by publicising the allegation or providing the opportunity for evidence to be obscured or destroyed. In cases where the Police or the Crown Prosecution Service have decided against a criminal prosecution, staff employed by Leigh Academies Trust must continue to co-operate fully with any internal disciplinary investigation that may follow.
- 1.9. All risk assessments and responses to concerns undertaken in accordance with this policy will be conducted in a reasonable, proportionate and transparent manner. The policy will be applied fairly and transparently, in line with the Leigh Academies Trust Opportunity Policy and disability-discrimination legislation.

## **2.0. The Role of Respective Agencies in an Investigation**

2.0.1 There are three possible types of investigation:

- 1) By Social Care and the Police under Section 47 of the Children Act 1989;
- 2) By the Police under criminal law;

3) By the specific Academy within Leigh Academies Trust, in line with staff disciplinary procedures.

2.0.2 Any disciplinary process should be clearly separated from the child-protection or criminal investigations. The disciplinary process may be informed by these other investigations and, in some circumstances, the child-protection agencies may decide to make a **recommendation** about suspension or other protective action as a result of a strategy discussion. The objectives of the child-protection or criminal investigation are different from those of the disciplinary procedure and the two processes should not be confused.

## 2.1. The Role of Children's Social Care

2.1.1 Children's Social Care has a duty to investigate cases where there is reasonable cause to believe that a child has suffered, or is likely to suffer, significant harm. On receiving a referral relating to an allegation against a member of staff which reaches the threshold of abuse, Social Care will call an initial strategy meeting in line with KSCB procedures. This meeting will define whether a joint investigation is necessary under section 47 of the Children Act 1989.

2.1.2 At any point during a subsequent investigation, Social Care and the Police may agree that the investigation be terminated. This will either be because:

- Enquiries lead them to a conclusion that the child has not suffered the alleged harm; or
- They are satisfied, where harm has occurred, that there is no likelihood of it recurring.

2.1.3. Such a decision will be ratified at a final strategy meeting, with recommendations for further action, if appropriate - e.g., conducting an internal disciplinary investigation. It is important to recognise that the purpose of the child-protection investigation is to determine, on the **balance of probability**, whether a child has suffered significant harm (abuse) and, if so, to eliminate the likelihood of further abuse.

2.1.4 The staff undertaking child-protection investigations on behalf of Social Care are trained and experienced in doing so. They will handle cases sensitively and professionally, so that a thorough, independent investigation can be undertaken.

## 2.2. The Role of the Police

2.2.1 The Public Protection Unit of the police comprises a team of officers specialising in child protection. The officers are specially selected and trained for working with vulnerable persons and they will undertake most interviews with children in line with 'achieving best evidence' procedures.

2.2.2 In the event of an allegation being made against a member of staff, it is possible that they will be interviewed and/or arrested by police officers. Normally, the interview and/or arrest will not take place on school premises.

2.2.3 The police are responsible for investigating allegations that indicate that a crime has been committed. The Crown Prosecution Service will then take any decision on whether or not to prosecute formally.

### 2.3. The Role of the Local Authority

- 2.3.1 The Children's Safeguarding Team (Education) are responsible for managing child-protection issues within the Education Division and any allegations against a member of staff must be reported immediately to the **ASA**. This consultation will determine whether the allegation reaches the threshold of **significant harm** to justify a referral to social services. The ASA may wish to consult colleagues in Social Services if there is any doubt about the need to refer the matter.
- 2.3.2 If the consultation discussion determines that the allegation does meet the criteria for referral to social services as a child-protection concern, the ASA will provide support to the Academy in making the referral and throughout the subsequent process as required.
- 2.3.3 The ASA will attend any strategy meetings that are convened and liaise closely with the Academy and the personnel consultant representing the local authority or the Academy. The ASA will also ensure that other key local-authority officers are informed according to the circumstances of the case; this may include the press office in certain circumstances likely to attract media interest.
- 2.3.4 Should it be determined at the initial point of consultation with the ASA that the allegation does not meet the threshold for a child-protection referral to social services, then the ASA will advise on further action that may be taken by Leigh Academies Trust in investigating the matter internally in line with the staff-disciplinary procedures. This will require close liaison with the Human Resources Manager of Leigh Academies Trust. Children's Safeguarding Service staff will not normally be involved in an internal management investigation, unless the role of expert witness or investigating officer is specifically commissioned by Leigh Academies Trust, particularly if it was necessary to interview children, for example. In such circumstances, the roles need to be clearly defined in terms of objectivity and impartiality.

### 2.4. The Role of the Academy

- 2.4.1 Each Academy within Leigh Academies Trust has a duty to co-operate fully with an investigation undertaken by the police and Social Services and the respective local authority Children's Safeguarding Team will provide support throughout this process. Academy staff have a key role in reassuring and supporting the child who is the alleged victim, while support for the member of staff who is the subject of the allegation will be facilitated in line with the staff-disciplinary process.
- 2.4.2 The task of investigating the allegation under disciplinary procedures is set out below and is separate from the investigations conducted by Social Services and the police.  
**Under no circumstances should the Academy initiate an internal management investigation into an allegation against a member of staff until a consultation has taken place with the local authority's Children's Safeguarding Team or Social Care directly.**
- 2.4.3 The Academy has a statutory duty to comply with child-protection procedures and this will include ensuring that all staff are familiar with the process and understand their responsibilities to report a concern. **When in doubt – consult.**

### 3.0. Reporting an Allegation or Concern

- 3.0.1 In relation to details within this section, please refer to the flow diagram showing procedural routes at Appendix A.
- 3.0.2 When a complaint of abuse is made against an employee on behalf of a child, there should be immediate consideration of whether a child or children is/are at risk of significant harm and in need of protection.
- 3.0.3 Any employee who becomes aware of a possible allegation or concern of a child-protection nature must take immediate steps to ensure that the matter is reported to the Principal or the Academy's Designated Child Protection Co-ordinator (DCPC). Where the allegation affects a member of one of the Leigh Academies Trust professional service teams, the relevant director of that team must be informed at the earliest opportunity. In the event that neither the Principal or the DCPC is available, then the matter should be reported to the Deputy. Individuals with concerns must be encouraged to report them as quickly as possible, to the most senior person available at the time. An investigation may be impeded if a concern is reported late and/or is communicated through several individuals before the Principal or DCPC and it is important that the school establishes at this stage who the lead contact will be for liaison purposes.
- 3.0.4 In the event that the allegation or concern involves the DCPC, then the matter must be reported directly to the Principal. Should the allegation or concern involve the Principal or professional service director, then the matter must be reported to the DCPC, who must also refer the matter to the Chief Executive Officer or Deputy Chief Executive Officer. Where the Principal is also the DCPC, the matter should be reported to the Chief Executive Officer or Deputy Chief Executive Officer. They will also liaise with the nominated Safeguarding Governor for the respective Academy Board. If the allegation is against the Chief Executive Officer or Deputy Chief Executive Officer, then the matter should be reported to the Chair of the Leigh Academies Trust Board. At all times, any report of any allegation or possible concern will be dealt with in the strictest confidence and, if necessary, staff can raise concerns directly with the ASA, with full protection under the Public Disclosure Act 1998 ('whistle-blowing').
- 3.0.5 **In all cases, the Principal, together with the DCPC, must have an immediate preliminary consultation about the allegation or concern with the ASA, who will advise on further action in accordance with this procedure, if appropriate. This is not the beginning of an investigation, but part of the basic information- gathering process. This advice will include whom, if anyone, should be made aware that an allegation or concern has been raised.**

**Where an allegation is made, the Principal or DCPC will also notify both the HR Director and the Deputy Chief Executive Officer.**

- 3.0.6 The reporting member of staff - i.e. Principal, DCPC, individual employee or governor - must also seek the advice of the Leigh Academies Trust Human Resources Manager regarding issues of process, responsibilities and communication.

- 3.0.7 It is important that the member of staff reporting the concern acts quickly. Establishing whether an allegation warrants further investigation or consultation is not the same as forming a view on whether the allegation is to be believed. **The Principal, Chief Executive Officer, Deputy Chief Executive Officer or Chair of Leigh Academies Trust Board, to whom an allegation has been reported, is not expected to investigate the allegation or to interview pupils, but to assess, after consultation with the ASA, how the matter will proceed. Confidentiality must be maintained throughout this stage in order that any subsequent investigation is not prejudiced and that the interests of all parties are protected.**
- 3.0.8 Where the allegation relates to the use of physical intervention to restrain a student (Section 93 of the Education and Inspections Act 2006 enables school staff to use such force as is reasonable to render a situation safe), the Principal should consult with the Area Children's Officer (Safeguarding) in the first instance, as this may be appropriately managed within the Academy. It is important for this consultation to take place to demonstrate that the Academy has acted in an open and transparent manner in establishing if the allegation meets the threshold for referral. An allegation of assault beyond the use of reasonable force, however, will need to be referred to Social Services as a child-protection matter. (DCSF Guidance, 'The Use of Force to Control or Restrain Pupils', was issued in accordance with Section 93 Education and Inspections Act 2006, which supersedes Section 550A of the Education Act 1996 and DfES Circular 10/98).

#### **4.0 Considering Whether Suspension is Appropriate**

- 4.0.1 The suspension of an employee, particularly in situations of potential child-protection allegations, will have a significant impact on the individual and it is therefore essential that the facts of the case, as they are known, and alternative courses of action are carefully considered in deciding whether to suspend. The specific arrangements for the suspension of staff are set out in the Leigh Academies Trust disciplinary procedure, but it should be recognised that suspension is a neutral act to protect the interests of both parties and not an assumption of guilt. It is also essential that the Disciplinary Procedures are followed with regard to providing appropriate support to the individual throughout the period of suspension.
- 4.0.2 The decision to suspend is taken by the Principal / Chief Executive Officer / Leigh Academies Trust Board and not by the police or Social Care. However, Social Care, in collaboration with other agencies, may advise the Directorate and the school of any action recommended to ensure the protection of children, protection of employees and safeguarding of information.
- 4.0.3 In the event of the suspended member of staff living in school accommodation on site, then alternative arrangements will need to be negotiated in the best interests of the children, the Academy and the member of staff concerned.
- 4.0.4 Being suspended or asked to refrain from work can give rise to great anxiety in the individual subject to the allegations. They may fear that colleagues and others within the academy/community will have interpreted the very act of suspension as an indicator of presumed guilt from an early stage and may feel particularly isolated and vulnerable.
- 4.0.5 Any member of staff subject to an allegation should be encouraged to seek advice and support, at the earliest opportunity, from their professional association or trade union. It

must also be acknowledged that the whole Academy/community may be affected by a staff member's suspension and consideration should be given to necessary support strategies to address this.

- 4.0.6 The need for support is equally applicable when considering a staff member's return to work. Suspension should be sustained for as short a length of time as possible and, if it is agreed that a staff member is to return to school/work, careful planning needs to take place as to how this situation can be managed as sensitively as possible.

#### 4.1. Initial Considerations

- 4.1.1 It may not be immediately obvious that suspension should be considered and this course of action sometimes only becomes clear after information is shared with, and discussion had, with other agencies.
- 4.1.2 In some cases, early or immediate suspension may impede a police investigation and the decision whether to suspend may therefore have to be delayed until sufficient evidence has been gathered. Suspension should be avoided in such cases wherever possible, and **should not be seen as an automatic response to an allegation**. This applies to the possible suspension of a Principal as well as other staff. Suspension should only follow after discussion with the Chief Executive Officer or Deputy Chief Executive Officer. The decision to suspend is the responsibility of the Principal / Chief Executive Officer / Chair of Leigh Academies Trust Board, depending on the staff member concerned.
- 4.1.3 When considering suspension, it is important to have regard to the following factors:
- The nature of the allegation;
  - Assessment of the presenting risk;
  - The context in which the allegation occurred;
  - The individual's contact with children;
  - Any other relevant information;
  - The power to suspend;
  - Alternatives to suspension.
- 4.1.4 Suspension should only be applied if one or more of the following grounds apply:
- A child or children would otherwise be at risk;
  - The allegation is so serious that summary dismissal for gross misconduct is possible;
  - It is necessary to allow any investigation to continue unimpeded.

#### 4.2. Alternatives to Suspension

- 4.2.1 While weighing the factors to determine whether suspension is necessary, available alternatives to suspension should be considered. These may include:
- Leave of absence;
  - Undertaking different duties which do not involve direct contact with the individual child or other children;
  - Providing a classroom assistant or other colleague to be present throughout contact time.

4.2.2 If the member of staff is not based in an academy, then an alternative may be to:

- Undertake office duty;
- Undertake non contact tasks only.

### **4.3. Action Plan**

4.3.1 The Children Act 1989 established the principle that the interests of the child are paramount. This, however, must be considered alongside the duty of care to staff. Any individual subject to allegations should, regardless of the decision to suspend or otherwise, be offered welfare support. Where possible, a means of monitoring the take-up and effectiveness of welfare support without compromising confidentiality or trust should be sought. Where suspension is being considered, the duty of care requires the Principal / Chief Executive Officer to ensure that appropriate support is available to the member of staff. In the case of an allegation against a Principal, this responsibility lies with the Chief Executive Officer. Agreement must be reached with the Human Resources Manager (and police where appropriate) as to how information will be shared and contact maintained with the member of staff throughout the investigative process. This should include agreement as to:

- How the member of staff will be kept updated on the progress of the investigation. The Academy will nominate a named representative to undertake this role;
- How support and counselling are to be offered;
- How links will be maintained with the Academy/Trust professional service team so that the staff member is kept informed of other matters occurring within the Academy/Trust professional service team/Leigh Academies Trust.

### **4.4. Confidentiality**

4.4.1 The Education Act 2011 places reporting restrictions preventing the publication of any material that might lead to the identification of a teacher who has been accused of an offence. These restrictions cease to apply if the individual to whom they apply effectively waives the right to anonymity by going public themselves, or by giving written consent.

4.4.2 Any breach of the reporting restrictions will constitute a criminal offence and the party responsible for the publication identifying the teacher will be liable to a substantial fine of up to £5,000. All staff must be made aware through training opportunities of these restrictions.

4.4.3 All Principals, professional service directors, the Chief Executive Officer and the Deputy Chief Executive Officer have a responsibility to safeguard confidentiality as far as is possible. Sensitive information must only be disclosed on a need-to-know basis with other professionals involved in the investigative process.

4.4.4 The Principal or DCPC should take advice from the ASA and other agencies as appropriate in relation to:

- Who needs to know and exactly what information should be shared;
- How to manage speculation, leaks and gossip;

- What, if any, information can reasonably be given to the wider community to reduce speculation;
- How to manage press interest, should it arise.

#### **4.5. Planning and Recording**

4.5.1 It is essential to record the decisions reached and the rationale behind them. Records should also be made of the agreed action and strategies to manage the situation. The plan should clearly indicate the following:

- Any restrictions on normal contact or activity;
- Issues of contact with children;
- Arrangements for monitoring and welfare support in relation to the member of staff;
- Monitoring the support available for the child.

4.5.2 It is important to keep a record of the actions taken in the course of the investigation and, where relevant, the process and conclusion of suspension should be undertaken as quickly and fairly as possible. If individuals have specific tasks or responsibilities to carry out, this should be noted and followed up. Agreed strategies for managing and sharing information should be included here. In addition, the member of staff should be informed of the decisions taken at the earliest opportunity.

#### **5.0. Disciplinary Investigation**

5.0.1 No action under the disciplinary procedure shall be taken in circumstances which may interfere with the child-protection investigation. Child-protection investigations shall be treated as paramount and any further action under disciplinary procedures may therefore have to await full completion of the child-protection and criminal investigations, but will be undertaken as soon as possible.

5.0.2 Once any child protection investigation has been completed and if the matter is not proceeding to court, a decision should be taken by the appropriate person in Leigh Academies Trust concerning whether to investigate under the disciplinary procedures. The Academy will need to consult the Human Resources Director or Manager prior to reaching a decision on this. In addition, the Academy must seek advice from the ASA in all cases if the safeguarding of children's welfare remains an issue within the academy.

5.0.3 The Chief Executive Officer may nominate a representative to conduct the investigation where it would be inappropriate for a Principal/Trust professional service director or other member of the Academy's leadership group to do so - e.g., where the Principal's/Trust professional service director's knowledge might prejudice a fair hearing, where he/she is implicated or where the Chief Executive Officer believes it is in the best interests of the Academy. The investigation will be undertaken in accordance with the Academy's disciplinary procedure (see separate document).

- 5.0.4 The position of the employer in coming to a reasonably-held view is not analogous with the decision to be made by a criminal court. The employer should come to a reasonably-held view **on the balance of probability**. The disciplinary investigation must gather evidence that objectively establishes the facts, where possible, and must follow the principles of fairness, reasonableness and natural justice.
- 5.0.5 Where allegations of child abuse are received against an employee at an academy, the ASA will take responsibility for ensuring that relevant information, as defined by the investigating officer, resulting from a child-protection investigation is made available to the Leigh Academies Trust Human Resources Manager and the Principal of the appropriate academy or Chief Executive Officer, in order to inform a decision about a possible disciplinary investigation.
- 5.0.6 Evidence derived from the child-protection investigation or criminal investigation - e.g., statements, exhibits and video-recorded interviews with children - may be available for use in subsequent disciplinary proceedings, particularly where the witnesses are the same. If access is sought to such material, a formal application should be made, via the Children's Safeguarding Team, to police in line with the agreed protocol. (It should be noted that the Branch Crown Prosecutor will be cautious about releasing any prosecution material until the criminal proceedings have been concluded and will only consider doing so upon a valid request being made in writing).
- 5.0.7 Where no criminal prosecution is pending or intended, advice from the police Solicitor's Department on the release of material should be sought through the Children's Safeguarding Team, who will have established a protocol with the police on behalf of the local authority to ease this process. Witnesses may include police officers and social workers who have interviewed the child/ren. Social Services will usually release the minutes of strategy meetings and, where necessary, provide additional reports.
- 5.0.8 Whether it is appropriate to call children as witnesses will depend on their age, understanding and capability. However, the attendance of children at any hearing will only take place in extremely unusual circumstances, following careful consultation with all interested parties, including the parents of the child/ren.
- 5.0.9 If a decision is taken to proceed with a disciplinary investigation, the employee should be informed, in writing, as required under the disciplinary procedure. It is advisable to confirm this position in a meeting with the employee and his/her representative.
- 5.0.10 If a decision is taken not to proceed with a disciplinary investigation, the employee should be invited to a meeting with a union representative or workplace colleague to explain the circumstances of the decision and to confirm this in writing.
- 5.0.11 Those involved in the investigation of the complaint or the continuing management of the situation at the Academy cannot hear consequent disciplinary cases, since they may receive information that may prejudice a fair hearing of the complaint. Governors who are to hear disciplinary appeals must not be involved in the earlier investigation of the complaint or the disciplinary hearing.

5.0.12 The Academy will need to make appropriate arrangements to notify the parent/guardian of the child/ren of the outcome of the investigation/hearing and will take advice from the Leigh Academies Trust Human Resources Manager and the Area Children's Officer (Safeguarding) regarding the nature of information that can be disclosed.

## 5.1. Timescales

5.1.1 Appendix 5 of 'Working Together to Safeguard Children' (2010) lays down indicative timescales within which the process should be concluded. It is recognised that these will present a challenge to all professionals but it is recommended that every effort should be made to comply with the following:

- a) If the nature of the allegation does not require formal disciplinary action, the Principal / professional service director / Chief Executive Officer should institute appropriate action within **three working days**;
- b) If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within **15 working days**;
- c) Where further investigation is required to inform consideration of disciplinary action, the Principal and Leigh Academies Trust Human Resources Manager should discuss who will undertake the investigation. In such cases, once nominated, the investigating officer should aim to provide a report to the employer within **ten working days**;
- d) The decision on whether a disciplinary hearing is needed should be made within **two working days** of the employer receiving the report;
- e) A disciplinary hearing should then be convened within **15 working days**.

## 6.0. Referral to the Disclosure and Barring Service (DBS)

6.0.1 The Secretary of State's powers to bar or restrict a person's employment are contained in section 142 of the Education Act 2002. The relevant regulations, setting out the procedure to be followed, are the Education (Prohibition from Teaching or Working with Children) Regulations 2003 (SI 2003/1184). List 99 has now been replaced by the DBS barring list under the Vulnerable Groups Act 2006.

6.0.2 A relevant employer or agent - e.g., a teacher-supply agency - is required to provide a report to the DBS if they cease to use a person's services, or if a person is dismissed or resigns before a disciplinary process is completed because they are considered unsuitable to work with children, either as a result of misconduct or because of a medical condition that raises a possibility of risk to the safety or welfare of children. **A compromise agreement does not override the statutory duty to report the matter.**

6.0.3 These reporting arrangements apply to anyone who works in a school/academy, including volunteers, regardless of what they do. They also apply to staff convicted of a criminal

offence against children outside the work setting, when notification may be through the police.

- 6.0.4 Anyone subject to a direction under section 142 of the 2002 Act, given on the grounds that he/she is unsuitable to work with children, is also disqualified from working with children. 'Work' includes people in unpaid employment, employed under contract, undertaking work experience and volunteers.
- 6.0.5 There is an additional requirement that residential special schools must report such matters to Ofsted. It is the responsibility of the employing body to make this referral and to inform the individual of its statutory duty to do so.
- 6.0.6 Further information on the Disclosure and Barring Service and the process of referral to the barring list can be found at [www.gov.uk/disclosure-barring-service-check/overview](http://www.gov.uk/disclosure-barring-service-check/overview).

## 7.0. Retention of Records

- 7.0.1 The Information Commissioner's Code of Practice: Employment Records 2002 states that **"records of allegations about workers who have been investigated and found to be without substance should not normally be retained once an investigation has been completed. There are some exceptions to this where, for its own protection, the employer has to keep a limited record that an allegation was received and investigated, for example where the allegation relates to abuse and the worker is employed to work with children or other vulnerable individuals."**
- 7.0.2 Records of investigations into alleged offences against children must be maintained, in order to identify patterns of concerns. A factual record of the details of all allegations and a written record of the outcome will be retained. This information will be held by the Children's Safeguarding Manager on behalf of the local authority, in line with the responsibilities of the ASA function.
- 7.0.3 The employee and/or his/her representative will be informed that such records exist, and will be able to seek disclosure within the parameters of the Data Protection Act by putting their request in writing through the appropriate channels.
- 7.0.4 Allegations that are found to be malicious should be removed from personnel records; and any that are unsubstantiated, unfounded or malicious should not be referred to in employer references.
- 7.0.5 An 'outcomes' proforma (Appendix B) will be completed by the relevant Principal / professional service director / Chief Executive Officer. The member of staff who was the subject of the allegation has the opportunity to comment as part of the 'outcomes' process. This record will be retained on the individual's confidential personnel file held by the employing body within the terms of the Leigh Academies Trust Disciplinary Procedure. A copy will be provided to the individual concerned. Such records will be retained in line with DfE guidance, which states: *'Until the person has reached normal retirement age, or for a period of 10 years from the date of the allegation, if that is longer'* - Chapter 5 Section 10 'Safeguarding Children and Safer Recruitment in Education (2007).

7.0.6 Where a pupil has made an allegation, a copy of the statement or the record made of it should be kept on the section of a pupil's child-protection file, which is not open to disclosure, together with a written record of the outcome of the investigation. If there are related criminal or civil proceedings, records may be subject to disclosure; and, therefore, no assurances can be given on confidentiality.

## **8.0. Action in Respect of Unfounded or Malicious Allegations**

8.0.1 If an allegation is shown to be deliberately invented or malicious, the Principal should consider whether any disciplinary action is appropriate against the student who made it, or whether the police should be asked to consider if action might be appropriate against the person responsible, even if he or she is not a student. Appropriate sanctions imposed by the Academy might include temporary or permanent exclusion.

## **9.0. Good Practice Guidelines**

9.0.1 Employees of Leigh Academies Trust and agencies working within or on behalf of the Trust must be familiar with the Safeguarding Policy of the Trust and associated procedures. Within these, guidance is given with regard to the following and should be followed:

- Out-of- school contact with pupils;
- Physical contact with pupils;
- Personal care of pupils;
- Relationships and attitudes;
- Extra-curricular activity;
- Reporting of incidents;
- Risk assessment and lone working;
- Use of the internet (and, in particular, social-networking sites - e.g., Facebook, Twitter and personal blogs), email and mobile phones.

## Outcome of Allegation Made Against Staff Member

### Explanatory Statement

This statement is made in accordance with the Safeguarding Children in Education Guidelines: Dealing with Allegations of Abuse against Teachers and Other Staff (Para 5.1, Safeguarding Children in Education and Safer Recruitment, 1st January 2007).

Under Paragraph 10, Record Keeping, there is a requirement to keep clear and comprehensive summary of allegations, **how the allegation was followed up and resolved, and a note of any action taken and decision reached.** This should be kept on an employee's confidential personnel file, and a copy provided to the person concerned.

The purpose of this 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 also provide clarification in cases where a future CRB Disclosure reveal information from the police about an allegation that did not result in a criminal conviction. It will also help to prevent unnecessary re-investigation if, as sometimes happens, an allegation resurfaces after a period of time.

The record should be retained at least until the person has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

**Name:**

**Academy/Service:**

**Date of Allegation:**

**Summary of Allegation made:**

**How Allegation was followed up:**

**Outcome of Management investigation:**

**Action taken and decisions reached:**

<b>Employee comments:</b>	
<b>Signature:</b>	<b>Date:</b>
<b>Printed name of person completing this form:</b>	
<b>Signature:</b>	<b>Date:</b>
<b>Status:</b>	
<p><b>Definitions:</b></p> <p><b>Substantiated</b> - A substantiated allegation is one which is Supported or established by evidence or proof'</p> <p><b>Unsubstantiated</b> – An unsubstantiated allegation is not the same as a false allegation. It simply means that there is insufficient identifiable evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.</p> <p><b>Unfounded</b> - This indicates 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. For an allegation to be classified as unfounded, it will be necessary to have evidence to disprove the allegation.</p> <p><b>Deliberately invented or malicious</b> - This implies a deliberate act to deceive. A malicious allegation may be made by a pupil following an altercation with a teacher or a parent who is in dispute with a school. For an allegation to be classified as malicious, it will be necessary to have evidence, which proves this intention.</p>	
<b>This form is to be sent within two weeks of concluding your investigation to the ASA.</b>	
<b>Form sent:</b>	

## Appendix A: Safeguarding allegations against staff

