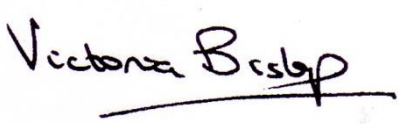




Title	Allegations of Abuse Policy
Reviewed	September 2018
Next Review	September 2021
Associated Policies	Child Protection Staff Disciplinary Intimate Care Searching Pupils Policy Restraint Policy Employee Code of Conduct/Duty of Care Recruitment E Safety Policy Safeworking with Pupils Guidance
Originator	Mrs Victoria Bishop
Approved	

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1. DfE Advice, Duties, Advice and Guidance

This policy should be used in respect of all cases in which it is alleged that a teacher, member of staff and volunteers of Hatton Academies Trust has:-

- behaved in a way that has harmed a child 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 indicated he/she may pose a risk of harm to children.

The DfE published updated statutory advice on allegations of abuse in 2012, and revised it again in October 2012 and April 2014 and in *Keeping Children Safe in Education 2018*.

Schools (including academies and independent schools), local authorities and FE colleges must have regard to it when carrying out duties relating to handling allegations against teachers and other staff. It supersedes the guidance contained in *Safeguarding Children and Safer Recruitment in Education (December 2006)*.

The Department of Education has updated the 'Keeping Children Safe in Education' or implementation from September 2018 which puts all child protection guidance, legislation in one single document.

This guidance refers to the following:

- *The Children Act 1989*
- Section 175 of the *Education Act 2002* (local authorities, governing bodies of maintained schools and institutions in the further education sector)
- Section 157 of the *Education Act 2002* and the *Education (Independent School Standards) (England) Regulations 2010*
- *The Children Act 2004*
- Section 11 of the *Children Act 2004* (other agencies)
- Sections 141F, 141G and 141H3 of the *Education Act 2002*
- Children Families Act 2014

2. Who is the guidance for?

This policy and procedures includes the requirements of the DfE as detailed in "Keeping Children Safe in Education" September 2018 and other aspects of good practice. It relates to all adults working with children and young people, whether in a paid or voluntary position including those who work with children on a temporary, supply or locum basis.

This policy applies to all staff employed by Hatton Academies Trust and those working as volunteers within the Trust academies. This is regardless of whether an Hatton Academies Trust academy is where the alleged abuse took place. Allegations against a teacher who is no longer teaching should be referred to the police.

There are distinctive arrangements for the CEO.

3. Roles and Responsibilities

3.1 Staff and Volunteers - Safeguarding against allegations

This policy applies to all students/pupils, staff & volunteers should report any concerns directly to the Academy Principal in the Hatton Academies Trust academies. This includes students in the sixth form.

However professional staff are in their relationships with pupils, it is inevitable that tensions and misunderstandings will occur from time to time. All staff are potentially vulnerable to allegations of abuse and need good training and clear guidance on how to deal with this.

Guidance for Safer Working Practice for Adults who Work with Children and Young People (2008) was produced to help staff and volunteers establish the safest possible learning environments. Its aims are also to safeguard young people and reduce the risk of staff being falsely accused of improper or unprofessional conduct. Hatton Academies Trust has published this guidance for all our staff and can be found on the Trust Safeguarding Hub. If there are any questions please ask the Principal.

The guidance contains detailed advice on a useful set of underpinning principles:

- the welfare of the child is paramount;
- Staff should report any concerns directly to the Principal or CEO;
- staff are responsible for their own actions and behaviour and should avoid any contact that would lead any reasonable person to question their motivation and intentions;
- staff should work, and be seen to work, in an open way;
- staff should discuss and/or take advice promptly from their line manager or another senior member of staff over any incident that may give rise to concern;
- records should be made of any such incident and of decisions made or further actions agreed, in accordance with the trust's policy for keeping and maintaining records;
- staff should apply the same professional standards regardless of gender or sexuality;
- all staff should know the name of their Designated Senior Person for Child Protection and understand their responsibilities to safeguard and protect young children and young persons; and
- staff should be aware that breaches of the law and other professional guidelines could result in criminal or disciplinary action being taken against them.

Hatton Academies Trust has incorporated these guidelines into the Staff Code of Conduct and all staff are required to undertake induction training covering child protection policy and procedures and sign that they have received and understood them.

4. Designated Senior Person

The 'Designated Senior Person' is a senior member of the staff of each academy with specific responsibility for co-ordinating action within the academy and for liaising with social services departments and other agencies over suspected child abuse. The job description of the DSP is in the Trust Child Protection Policy.

5. Hatton Academies Trust Board of Directors

As their employer, Hatton Academies Trust Board of Directors has a duty of care to our employees. We will provide effective support for anyone facing an allegation and will provide the employee/volunteer with a named contact if they are suspended.

This policy is about managing cases of allegations that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children in their present position, or in any capacity. It should be used in respect of all cases in which it is alleged that a teacher or member of staff (including volunteers) in a trust academy has:

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

We will ensure that any allegation of abuse made against a teacher or other member of staff or volunteer is dealt with very quickly, and in a fair and consistent way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation. The CEO will act on behalf of the Board of Directors unless the allegation is against him/her.

6. The Chair of the Board of Directors

With all staff in the Hatton Academies Trust, the CEO acts on behalf of the Board of Directors. However, the procedure differs if the allegation is against the CEO.

The Chair of the Board of Directors is responsible for the oversight of procedures relating to liaison with the Education Department, Social Services Departments and the Police in relation to any allegations of child abuse made against the CEO, including possible involvement in multi-agency strategy discussions.

NB: The Chair of the Board of Directors will have no direct role in undertaking child protection enquiries or criminal or disciplinary investigations or investigation of an allegation against the CEO. He/she will be a liaison person ensuring good communication between all parties and provide information to assist any such enquiries or investigation.

7. The CEO

The CEO will ensure that each academy within the Trust has the procedures required by this policy in place and that statutory requirements are met.

On behalf of the Board of Directors of Hatton Academies Trust, the CEO will:

- (a) ensure that the Hatton Academies Trust has a child protection policy and procedures in place which are consistent with ACPC procedures and DfE statutory guidance.
- (b) ensure that an annual item is placed on the Board of Directors' agenda to report on changes to child protection policy/procedures, training undertaken by the Senior Designated Person, other staff and Directors. The report will contain the number of incidents/cases (without details or names) and the place of child protection issues in each academy curriculum;

- (c) liaise (with due regard to issues of confidentiality) with the Principal//Designated Senior Person re allegations of child abuse;
- (d) Be responsible for the oversight of procedures relating to liaison with the Education Department, Social Services Departments and the Police in relation to any allegations of child abuse made against a staff member of an Hatton Academies Trust academy, including possible involvement in multi-agency strategy discussion.

NB: The CEO will have no direct role in undertaking child protection enquiries or criminal or disciplinary investigations or investigation of an allegation. He/she will be a liaison person ensuring good communication between all parties and provide information to assist any such enquiries or investigation.

8. Responsibilities Within Safeguarding (LADO)

Key roles within the LSCB (Northamptonshire)

- Working Together 2013 identifies three key roles essential to an effective process for managing allegations: the Named Senior Officer (NSO) in each agency, the senior Manager (SM) in each agency and the Local Authority Designated Officer (LADO).

Each LSCB member organisation should have a named senior officer with overall responsibility for:

- Ensuring that their organisation operates procedures for dealing with allegations in accordance with the guidance in [Working Together 2013](#);
- Resolving any inter-agency issues with the LSCB business office on the subject;
- Ensuring the organisation operates procedures in accordance with LSCBN child protection procedures.

The Senior Manager is the person within each member organisation who has overall responsibility for:

- Ensuring procedures are properly applied and implemented;
- Providing advice, information and guidance for staff within the organisation;
- Managing all allegations and concerns which relate to any employee or volunteer.

Local Authority Designated Officer (LADO)

The LADO role relates to:

- The management and oversight of all individual cases;
- Providing advice and guidance to employers and voluntary organisations and facilitating an initial discussion/evaluation to determine if the criteria are fulfilled;
- Liaising with the Police, social care and all other agencies;

- Chairing Joing Evaluation Meetings;
- Monitoring the progress of cases to ensure that they are dealt with as quickly and consistently as possible through the use of a fair and thorough process;
- Collect strategic data for analysis and yearly report to the LSCBN.

9. Definitions

The DfE guidance says that the following definitions should be used when determining the outcome of allegation investigations:

- a) **Substantiated:** where there is sufficient identifiable evidence to prove the allegation;
- b) **False:** where there is sufficient evidence to disprove the allegation;
- c) **Malicious:** where there is clear evidence to prove there has been a deliberate act to deceive;
- d) **Unfounded:** where there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances;
- e) **Unsubstantiated:** this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

10. Initial Considerations and Procedures

STAFF MUST REPORT ANY CONCERNS DIRECTLY TO THE ACADEMY PRINCIPAL OR CEO

The procedures for dealing with allegations need to be applied with common sense and judgement. Many cases may well either not meet the criteria set out above, or may do so without warranting consideration of either a police investigation or enquiries by local authority children's social care services. In these cases, local arrangements should be followed to resolve cases without delay.

Some rare allegations will be so serious they require immediate intervention by children's social care services and/or police.

The LADO should be informed of all allegations that come to the trust's attention and appear to meet the criteria so they can consult police and children's social care services as appropriate. Whenever possible a senior manager should report the incident to the LADO within one working day. (Working Together 2015).

Safeguarding Service on **03330 139 797**

In the first instance, the Principal should immediately discuss the allegation with the LADO. In the absence of the Principal, the CEO will undertake this requirement.

The purpose of an initial discussion is for the LADO and the Principal/CEO to consider the nature, content and context of the allegation and agree a course of action. The LADO may

ask the Principal/CEO to provide or obtain relevant additional information, such as previous history, whether the child or their family have made similar allegations and the individual's current contact with children. There may be situations when the Principal will want to involve the police immediately, for example if the person is deemed to be an immediate risk to children or there is evidence of a criminal offence. Where there is no such evidence, the case manager should discuss the allegations with the LADO in order to help determine whether police involvement is necessary.

The initial sharing of information and evaluation may lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern; in which case this decision and a justification for it should be recorded by both the Principal/CEO and the LADO, and agreement reached on what information should be put in writing to the individual concerned and by whom. The Principal/CEO should then consider with the LADO what action should follow both in respect of the individual and those who made the initial allegation.

The Principal/CEO should inform the accused person about the allegation as soon as possible after consulting the LADO. It is extremely important that the Principal/CEO provides them with as much information as possible at that time. However, where a strategy discussion is needed, or police or children's social care services need to be involved, the Principal/CEO should not do that until those agencies have been consulted, and have agreed what information can be disclosed to the accused.

The CEO must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the academy or whether alternative arrangements can be put in place until the allegation or concern is resolved. All options to avoid suspension should be considered prior to taking that step. **(See further information on suspension below).**

If the allegation is not demonstrably false or unfounded, and there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion should be convened in accordance with *Working Together to Safeguard Children*. If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take into account that teachers and other academy staff are entitled to use reasonable force to control or restrain pupils in certain circumstances, including dealing with disruptive behaviour.

Where it is clear that an investigation by the police or children's social care services is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the LADO should discuss the next steps with the Principal/CEO. The Academy Trust's options will range from taking no further action to dismissal or a decision not to use the person's services in future. Suspension should not be the default position: an individual should be suspended only if there is no reasonable alternative.

In some cases, further enquiries will be needed to enable a decision about how to proceed. If so, the LADO should discuss with the Principal/CEO how and by whom the investigation will be undertaken. In straightforward cases, the investigation should normally be undertaken by a senior member of staff of Hatton Academies Trust.

However, in other circumstances, such as lack of appropriate resource within the trust, or the nature or complexity of the allegation will require an independent investigator.

11. Existing Staff

If an academy has concerns about an existing staff member's suitability to work with

children, the academy should carry out all relevant checks as if the person were a new member of staff. Similarly, if a person working at the academy moves from a post that was not regulated activity into work which is considered to be regulated activity, the relevant checks for that regulated activity must be carried out. Apart from these circumstances, the academy is not required to request a DBS check or barred list check.

Academies have a legal duty to refer to the DBS anyone who has harmed, or poses a risk of harm, to a child or vulnerable adult where:

- The harm test is satisfied in respect of that individual (see Appendix 2. The Harm Test)
- The individual has received a caution or conviction for a relevant offence, or if there is reason to believe that the individual has committed a listed relevant offence
- The individual has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left.

The legal duty to refer applies equally in circumstances where an individual is deployed to another area of work that is not regulated activity, or they are suspended.

The DBS will consider whether to bar the person. Referrals should be made as soon as possible after the resignation, removal or redeployment of the individual.

12. Support for staff

As the employers, Hatton Academies Trust has a duty of care to employees. The Trust will act to manage and minimise the stress inherent in the allegations process. Support for the individual is key to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by the children's social care services or the police. The individual should be advised to contact their trade union representative, if they have one, or a colleague for support. They should also be given access to Hatton Academies Trust welfare counselling or medical advice providers.

The SDP should appoint a named representative to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual. Particular care needs to be taken when employees are suspended to ensure that they are kept informed of both the progress of their case and current work-related issues. Social contact with colleagues and friends should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

13. Managing information

The Principal/CEO should tell parents or carers of a child or children involved about the allegation as soon as possible. However, where a strategy discussion is required, or police or children's social care services need to be involved, the Principal/CEO should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers.

Parent or carers should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process.

The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but the parents or carers of the child should be told the outcome in confidence. In taking this action, careful consideration should be given to the provisions of the Data Protection Act 1998, the law of confidence and, where relevant, the Human Rights Act 1998. Staff are strongly advised to contact the Trust's legal advice service for advice and support.

Parents and carers should also be made aware of the prohibition on reporting or publishing allegations about teachers in section 141F of the *Education Act 2002 (see below)*. If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice.

In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's social care services, or the police as appropriate, should consider what support the child or children involved may need.

14. Confidentiality

When an allegation is made it is extremely important that every effort is made to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.

The Education Act 2011 introduced reporting restrictions preventing the publication of any material that may lead to the identification of a teacher who has been accused by, or on behalf of, a pupil from the same academy where that identification would identify the teacher as the subject of the allegation.

The reporting restrictions apply until the point where the accused person is charged with an offence, or until the National College for Teaching and Leadership on behalf of the Secretary of State for Education, publishes information about an investigation or decision in a disciplinary case arising from the allegation.

The reporting restrictions also cease to apply if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so, or if a judge lifts restrictions in response to a request to do so.

Staff should be clear that restrictions that may identify an accused teacher include speech, writing, and social networking sites.

The Principal/CEO should take advice from the LADO, police, and children's social care services to agree the following:

- Who needs to know and, importantly, exactly what information can be shared;
- How to manage speculation, leaks and gossip;
- What, if any information can be reasonably given to the wider community to reduce speculation; and

- How to manage press interest if and when it should arise.

15. Compromise agreements and resignations

If the accused person resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with this guidance.

A referral to the DBS must be made, if the criteria are met i.e. anyone who has harmed or poses a risk of harm, to a child, or if there is reason to believe the member of staff has committed one of a number of offences, and who has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left.

The DBS will consider whether to bar the person. Referrals should be made as soon as possible after the resignation or removal of the individual.

It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process. Wherever possible the accused should be given a full opportunity to answer the allegation and make representations about it. But the process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be substantiated on the basis of all the information available, should continue even if that cannot be done or the accused does not cooperate. It may be difficult to reach a conclusion in those circumstances, and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

'Settlement/Compromise agreements', by which a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, **should not** be used in these cases. Such an agreement will not prevent a thorough police investigation where that is appropriate. Nor can it override the statutory duty to make a referral to the Disclosure and Barring Service (DBS) from where circumstances require that referral.

16. Records

Details of allegations that are found to have been malicious should be removed from personnel records. However, for all other allegations, it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the confidential personnel file of the accused, and a copy provided to the person concerned.

The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation in the future. The record should be kept at least until the accused has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on employment retention.

17. Employment references

Cases in which an allegation was proven to be false, unsubstantiated, unfounded or malicious should not be included in employer references.

18. Timescales

Cases should be resolved as quickly as possible. The DfE expects that:

- 80% of cases should be resolved within **one month**;
- 90% within **three months**; and
- all but the most exceptional cases should be completed within 12 months.

Those cases where it is clear immediately that the allegation is unfounded or malicious, should be resolved **within one week**.

Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the Hatton Academies Trust to deal with it, although if there are concerns about child protection, the Trust should discuss with the LADO. In such cases, if the nature of the allegation does not require formal disciplinary action, the Trust should institute appropriate action within **three working days**.

If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within **15 working days**.

19. Suspension

Some rare cases will require the CEO to consider suspending the accused until the case is resolved. Suspension must not be an automatic response when an allegation is reported; all options to avoid suspension should be considered prior to taking that step.

If the CEO is concerned about the welfare of other children in the community or the teacher's family, those concerns should be reported to the LADO or police. But suspension is highly unlikely to be justified on the basis of such concerns alone.

Suspension should be considered only in a case where there is cause to suspect a child or other children at the academy is/are at risk of significant harm or the case is so serious that it might be grounds for dismissal. However, a person should not be suspended automatically: the CEO must consider carefully whether the circumstances warrant suspension from contact with children at the academy until the allegation is resolved, and may wish to seek advice from the Academy Trust employment advisors and the LADO.

The CEO should also consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements. In many cases an investigation can be resolved quickly and without the need for suspension. If the LADO, police and children's social care services have no objections to the member of staff continuing to work during the investigation, the CEO should be as inventive as possible to avoid suspension.

Based on assessment of risk, the following alternatives should be considered by the CEO before suspending a member of staff:

- redeployment within the academy so that the individual does not have direct contact with the child or children concerned;

- providing an assistant to be present when the individual has contact with children;
- redeploying to alternative work in the academy so the individual does not have unsupervised access to children;
- moving the child or children to classes where they will not come into contact with the member of staff, making it clear that this is not a punishment and parents have been consulted; or
- temporarily redeploying the member of staff to another role in a different location, for example to an alternative Hatton Academies Trust Academy.

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

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

Where it has been deemed appropriate to suspend the person, written confirmation should be dispatched within **one working day**, giving as much detail as appropriate for the reasons for the suspension. It is not acceptable for an employer to leave a person who has been suspended without any support. The person should be informed at the point of their suspension who their named contact is within the organisation and provided with their contact details.

Children's social care services or the police cannot require the CEO to suspend a member of staff or a volunteer, although they should give appropriate weight to their advice. The power to suspend is vested in the CEO, or the Board of Directors who are the employers of staff. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by the children's social care services and/or an investigation by the police, the LADO should canvass police and children's social care services for views about whether the accused member of staff needs to be suspended from contact with children in order to inform the Trust's consideration of suspension. Police involvement does not make it mandatory to suspend a member of staff; this decision should be taken on a case-by-case basis having undertaken a risk assessment.

NB. In recent cases (e.g. **Mezey**) it has been established that suspension cannot be seen to be a wholly neutral act and suspension where there is no good and urgent cause may be a basis for action against an employer. Good and urgent causes may be:

- a threat to the child;
- a threat to evidence;
- a threat to the accused member of staff.

A threat to the academy's reputation is not a good and urgent cause.

20. Information sharing

The agencies involved should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.

Where the police are involved, wherever possible the employer should ask the police to obtain consent from the individuals involved to share their statements and evidence for use in the employer disciplinary process.

Children's social care services should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are 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 the employer without delay.

21. Specific Actions

21.1 Action following a criminal investigation or prosecution

A Following a criminal investigation or prosecution or eventual trial the police or the Crown Prosecution Service (CPS) should inform the employer and LADO immediately.

In those circumstances the LADO should discuss with the SDP/CEO whether any further action, including disciplinary action, is appropriate and, if so, how to proceed. The information provided by the police and/or children's social care services should inform that decision. The options will depend on the circumstances of the case and the consideration will need to take into account the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

21.2 Action on conclusion of a case

If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the LADO should discuss with the SDP and CEO whether to refer the case to the DBS for consideration of inclusion on the barred lists; or for a member of the teaching staff to refer the matter to the National College for Teaching and Leadership (NCTL) to consider prohibiting the individual from teaching.

There is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child, or vulnerable adult.

Schools and colleges have a legal duty to refer to the DBS anyone who had harmed, or poses a risk of harm, to a child or vulnerable adult; where the harm test is satisfied in respect of that individual; where the individual has received a conviction for a relevant offence, or of there is reason to believe that individual has committed a listed relevant offence; and that individual has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left. The DBS will consider whether to bar the person. Referrals should be made as soon as possible after the resignation or removal of the individual. Guidance on referrals can be found on GOV.UK.

Schools and colleges have a legal duty to refer to the DBS anyone who has harmed, or poses a risk of harm, to a child or vulnerable adult; where the harm test is satisfied in respect of that individual; where the individual has received a caution or conviction for a relevant offence, or if there is a reason to believe that individual has committed a listed relevant offence; and that individual has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left. The DBS will consider whether to bar the person. Referrals should be made as soon as possible after the resignation or removal of the individual. Guidance on referrals can be found on www.gov.uk

Where a teacher's employer, including an agency, dismisses or ceases to use the services of a teacher because of serious misconduct, or might have dismissed them or ceased to use their services had they not left first, they must consider whether to refer the case to the Secretary of State, as required by sections 141D and 1412E of the Education Act 2002. The Secretary of State may investigate the case, and if s/he finds there is a case to answer, must then decide whether to make a prohibition order in respect of that person.

In such circumstances, the duty to refer an individual to the DBS arises where an employer has removed the individual from relevant work with children or the person has chosen to cease relevant work in circumstances where they would have been removed had they not done so.

Referrals should be made as soon as possible after the resignation or removal of the member of staff involved and within one month of ceasing to use the person's services.

Where it is decided that a suspended member of staff/volunteer can return to work, the SDP and Executive Principal should consider how best to facilitate that. Most people would benefit from help and support. A phased return may be appropriate. The SDP should consider how to manage the situation if the pupil is still at the academy.

22. Learning lessons

At the conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the SDP/Executive Principal to determine whether there are any improvements to be made to the Academy Trust's procedures or practice to help prevent similar events in the future.

23. Malicious allegations

If an allegation is determined to be unfounded or malicious, the LADO should refer the matter to the children's social care services to determine whether the child concerned is in need of services, or may have been abused by someone else. If an allegation is shown to be deliberately invented or malicious, the CEO should consider whether any disciplinary action is appropriate against the pupil 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 was not a pupil.

24. Advice to Academy staff

24.1 Listening to Children

Children who report to a teacher (or other member of staff) that a member of staff has abused them must be listened to and heard, whatever form their attempts to communicate their worries take.

The following points give guidance on how to deal with a child who makes an allegation:

The child should be listened to but not interviewed or asked to repeat the account. Avoid questions, particularly leading questions;

The child should not be interrupted when recalling significant events;

All information should be noted carefully, including details such as timing, setting, who was present and what was said, in the child's own words. The account should be obtained verbatim or as near as possible;

Care should be taken not to make assumptions about what the child is saying or to make interpretations;

Listened to means just that; on no account should suggestions be made to children as to alternative explanations for their worries;

The written record of the allegations should be signed and dated by the person who received them as soon as practicable; and

All actions subsequently taken should be recorded.

No member of staff should promise confidentiality to a pupil who makes an allegation.

In responding to a child who makes disclosures, account should be taken of the age and understanding of the child and whether the child or others may be at risk of significant harm.

While acknowledging the need to create an environment conducive to speaking freely, the member of staff should make it clear to a pupil who approaches him/her asking for confidentiality that, he/she will need to pass on what has been told so as to ensure the protection of the child(ren) in accordance with academy policy. Within that context, the child should then be assured that the matter will be disclosed only to people who need to know about it. The support needs of a child who express concerns about significant harm should be considered and met, utilising resources within and/or beyond the academy as necessary.

Child protection procedures should be used for any allegations against adults not employed in the academy as well as for allegations against third parties with no involvement with the academy.

Action to be taken by staff who hear an allegation

It is essential that any allegation of abuse against a member of staff, or a volunteer, is dealt with fairly quickly and consistently in a way that provides effective protection for the child and also supports the person against whom the allegation has been made. Handling allegations, particularly serious ones, is a complex and delicate process. All allegations need to be taken seriously. Staff should take expert advice and assistance at all stages.

The procedure should be followed in all cases where there is an allegation that a member of staff or volunteer 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 in a way which indicates he/she is unsuitable to work with children.

The member of staff receiving the allegation of abuse against another member of staff should report this immediately to the Principal or CEO unless the Principal or the CEO is the person against whom the allegation is made.

An allegation against the Principal should be reported to the CEO/Designated Senior Teacher or the Chair of the Board of Directors, where the CEO is the subject of the allegation.

Certain cases will need urgent action and require immediate referral under local child protection procedures, as detailed in below.

Immediately an allegation is made, as well as consulting the LADO, the CEO (or, in cases where the allegation is against the CEO, the Chair of the Board of Directors) should:-

- (a) obtain written details of the allegation, signed and dated from the person who received the allegation (not from the child who made and/or was the subject of the allegation) and countersigned and dated by the CEO (or SDP or Chair of the Board of Directors where the allegation is against the CEO); and
- (b) record any information about times, dates, locations and names of potential witnesses.

24.2. Key Points for Guidance

Key points for guidance are:

- procedures need to be applied with common sense and judgement. All allegations, including those appearing not to be serious must be seen to be followed up, taken seriously and examined objectively;
- parents or carers of the child or children involved should be told about the allegation as soon as possible and kept informed of developments and outcomes including the outcome of any disciplinary hearing. However details of the deliberations of a disciplinary hearing should not be disclosed;
- the accused member of staff should also be informed as soon as possible after the LA designated officer has been consulted and then be kept informed of the progress of the case. If the person has been suspended they should be kept informed of developments at academy;
- in potentially serious case where a strategy meeting is needed the member of staff can not be informed until the other agencies have been consulted and agree what information can be given;
- the fact that the member of staff resigns should not prevent an allegation being followed up. Compromise agreements under which the member of staff agrees to resign and the academy agrees not to pursue disciplinary action should not be used.

24.3 Urgent Initial Assessment

Where an allegation (anonymous or otherwise) is made against a member of staff, there should be urgent consultation by the CEO/SDP with the LADO as to how to take the matter forward. Where the allegation is against the CEO/SDP, this consultation will be between the Chair of the Board of Directors and the LADO

If a child makes an allegation that is considered to be a potential criminal act, or indicates that s/he has suffered, is suffering or is likely to suffer significant harm, then there will be an

immediate referral in accordance with the local child protection procedures established by the ACPC. If there is any doubt of these matters, then guidance/clarification can be sought from the LADO.

There will be instances where allegations made do not require referral under local child protection procedures detailed above. The LADO should be consulted if there are any doubts.

Those instances are as follows:

- (i) Where the allegation relates to the use of reasonable force to restrain a pupil, in accordance with s.550A of the Education Act 1996 and DfEE Circular 10/98 and Welsh Office Circular 37/98, it will be appropriate for the Principal/Associate Principal or Head of Primary Education to deal with the matter at the academy level. An allegation of assault beyond the use of reasonable force would however need to be dealt with in accordance with the trust Disciplinary and Child Protection procedures as detailed above.
- (ii) Where following initial consideration it is absolutely clear to the LADO and the Senior Staff Member (or where the allegation involved the CEO, the Chair of the Board of Directors) that the allegation is demonstrably false by virtue of the fact that the immediate circumstances of the allegation show that it would not be possible for the allegation to be true, then again the matter can be dealt with at the academy level. However, in these circumstances, it should be borne in mind that if a child has made an obviously false allegation, this may well be a strong indicator of abuse elsewhere which require further exploration. The best way for this to be achieved is through an inter-agency referral in order that any underlying causes can be teased out.
- (iii) The allegation may represent inappropriate behaviour or poor practice by a member of staff which needs to be considered under trust disciplinary procedures.

Therefore, when such allegations are made, there are four possible outcomes of the initial assessment:

- (i) Where the pupil has suffered, is suffering, or is likely to suffer significant harm, there should be an immediate referral under local child protection procedures established by the ACPC;
- (ii) Where the child has alleged that a criminal offence has been committed, then again this will be referred under trust child protection procedures and the police may carry out a criminal investigation;
- (iii) The allegation may represent inappropriate behaviour or poor practice by a member of staff (which does not fall within the above categories) that needs to be considered under trust disciplinary procedures; and
- (iv) That the allegation is apparently without foundation.

24.5 The Referral Process

The immediate priority must be to determine whether a child has suffered or is at risk of significant harm and/or in need of protection. If this appears to be the case there should be

an immediate referral to local child protection agencies in accordance with the agreed procedures established by the ACPC. The responsibility for that lies with the LADO.

Where allegations of abuse are referred to the Social Service Department or the police, subsequent action will be in accordance with the local child protection procedures. Early action to establish the nature of the allegation and consideration of whether it should be investigated should be undertaken in such a way that it does not prejudice any subsequent action. There must be no interference with evidence e.g. education staff or governors should not attempt to interview children about these matters.

In cases where it is not immediately obvious that the child has suffered significant harm it is still important to act quickly. It is also important to recognise that establishing whether an allegation warrants further investigation is not the same thing as deciding whether an allegation is well founded.

The CEO or Chair of the Board of Directors where the allegation is against the CEO should not investigate the allegation, or interview pupils, or discuss the allegation with the member of staff, but should consider, in consultation with the LADO, whether the allegation requires further investigation and if so, by whom.

Only if the allegation is trivial or demonstrably false, will further investigations not be warranted.

Where the initial assessment by the LA lead officer (LADO) and the CEO (or, where the allegation is against the CEO, the Chair of the Board of Directors) concludes that the allegation warrants investigation, there will be either:

- (i) a referral to one or more of the agencies with statutory responsibilities to make enquiries; or
- (ii) where wholly satisfied that the child or children is/are not at risk of significant harm or that a potential crime has not been committed, an investigation under the trust's disciplinary procedures.

24.6 Enquiries and Investigations

There are three possible types of investigation:

1. enquiries by social services under local child protection procedures;
2. related police investigations into possible criminal offences; and
3. the Hatton Academies Trust's disciplinary procedures.

Any disciplinary process should be clearly separated from child protection enquiries and criminal investigations. Whilst the disciplinary process may be informed by child protection enquiries and criminal investigations, and in some circumstances the child protection agencies might decide to make a recommendation about suspension or other protective action as a result of the strategy discussion, the child protection and criminal processes have different objectives from the disciplinary procedure and they should not be confused.

Decisions as to suspensions and/or disciplinary action are for the CEO or Board of Directors.

Any investigation by the police or child protection agencies will take priority over an internal disciplinary investigation by the academy. An internal investigation related to the same or similar allegations running alongside a criminal investigation or child protection enquiry is not likely to be good practice and should be held in abeyance pending the completion of the

external enquiries and investigation. In any event, the decision as to whether to initiate an internal investigation will be more fully informed by information about the outcome of the child protection enquiries and any criminal investigation.

Action after Referral to Child Protection Agencies

When an allegation has been referred through the ACPC procedures to the appropriate child protection agency any subsequent enquires will be informed by the guidance in "Working Together to Safeguard Children". This guidance recommends that there should be a strategy discussion to plan the conduct of enquiries under child protection procedures and it is essential that the LADO and, other than in exceptional circumstances, the CEO or SDP or Chair of the Board of Directors (where the allegation is against the CEO) be involved in and contribute to such strategy discussions in cases of allegations against members of staff.

The strategy discussion should also consider whether any other children are likely to have been at risk in the light of the allegation, and whether it may be necessary to review any previous allegations made against the member of staff, or to consider interviewing any other children including ex-pupils of the academy or any other schools.

The CEO/Chair of the Board of Directors/LADO should balance the welfare of the accused member of staff, and the interests of the investigation taking account of the need to minimise the stress to anyone who may be wrongly accused. Staff who are the subject of allegations should be advised by the Principal at the earliest opportunity to contact their trade union.

25. Police Involvement

In some cases the police might wish to interview the member of staff against whom the allegation is made before any approach is made by the CEO (SDP or Chair of the Board of Directors) in cases where allegations involve the CEO). The police may act independently particularly where the alleged offence does not arise from the individual's professional duties in the academy. Police officers should be given every assistance with their enquiries but confidentiality about the enquiries should be maintained in the individual's interests.

When the police are involved, it would not normally be expected that police interviews would be undertaken on the academy's premises and it would be expected that appointments would normally be made at reasonable times.

26. Notification of Interested Parties

The police (or a view taken at the strategy discussion stage) may decide that the investigation would be hindered by an approach to parties at an early stage. The CEO in consultation with the LADO, must ensure there is no objection by the police before contacting any parties.

Subject to there being no objection, the CEO (or Chair of the Board of Directors) in cases involving allegations against the Executive Principal) should:

- (a) inform the child, children or parent making the allegation and explain the likely course of action;
- (b) ensure the parents of the child who is the alleged victim have been informed of the fact of the allegation and of the likely course of action;

- (c) inform the member of staff against whom the allegation is made and explain the likely course of action; and
- (d) inform the Board of Directors

25.3. Where the police object to the action outlined in a-d above, the CEO /Chair of the Board of Directors and the LADO should be informed accordingly and arrangements made to keep him/her informed as to when these notifications may take place or have taken place.

25.4 A written record of the action taken under this section should be made by the CEO (or Chair of the Board of Directors).

27. Unfounded Allegations

Where the allegation is demonstrably false, then the CEO (or, where the allegation involves the CEO, the Chair of the Board of Directors) should in consultation with the LADO and CEO/SDP

- (a) take account of the fact that if a child has made an obviously false allegation of abuse, this may well be strong indicator of problems of, abuse elsewhere which require further exploration. The best way for this to be achieved is through an inter-agency referral in order that any underlying causes can be teased out;
- (b) inform the member of staff orally and in writing of the allegation and the fact that no further action is to be taken under disciplinary or child protection procedures. The member of staff may be accompanied by a trade union representative or friend;
- (c) consider whether counselling and/or informal professional advice to the member of staff is appropriate and the form either might take;
- (d) inform the parents of the child or children of the allegation and the outcome in writing;
- (e) consider appropriate counselling and support for the child or children who made the allegation(s) and, where appropriate, their parents; in particular, consider what follow up action should be taken in regard to a person or child who has made an allegation that is shown to be false or unfounded, especially if it is shown to have been made maliciously; where the allegation has been made by a person other than the alleged child victim themselves, consideration should be given to informing the parents and child of the fact of the unfounded allegation and providing support as necessary; and
- (f) prepare a report, giving reasons for the conclusion that the allegation is without foundation.

28. Outcome of Disciplinary Investigation

At the end of the investigation, a meeting should be arranged to inform the member of staff of the next steps. He/she may be accompanied or represented by a trade union representative or friend.

If the outcome is a disciplinary charge, further action will be in accordance with Hatton Academies Trust disciplinary procedures and will happen after child protection enquiries.

If the individual has been suspended and it is later decided not to proceed with any form of disciplinary action or to dismiss, the suspension should be lifted immediately. The CEO or Chair of the Board of Directors should meet the member of staff to discuss the arrangements for their return to work.

Other than in the event of dismissal, the academy should provide the opportunity for informal counselling. This could be used to give appropriate guidance, support and reassurance and help, where necessary, to rebuild confidence. There may also be a need for specific guidance and sympathetic consideration may need to be given to other employment options, in consultation with the local education authority.

On the conclusion of any investigation and any related disciplinary proceedings, the child or children who made the allegations and their parents/carers should be informed of the outcome of the proceedings. This should be prior to the person's return to academy if he or she has been suspended. In some circumstances, consideration should be given to the broader disclosure of details of the outcome, together with reasons, for example, where the issues are of general importance, have become common knowledge or have been the subject of general gossip and there is a need to provide accurate details for public information. The authority's public relations department may be able to offer appropriate advice.

Appropriate counselling and support should be offered to the child or children who made the allegations and, where appropriate, their parents, by the time the member of staff returns to the academy. In particular, this should take into account a child's particular needs where a false or malicious allegation has been made.

29. Hatton Academies Trust Records

Documents relating to an investigation must be retained, in a secure place by Hatton Academies Trust, together with a written record of the outcome of the investigation and, where disciplinary action has been taken, retained on the member of staff's personal and confidential file in accordance with the academy's disciplinary procedures.

If the member of staff is dismissed, or resigns before a disciplinary process is completed, he/she should be informed about the employer's statutory duty to report the case to the DBS for consideration for their debarring from further employment.

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 personal 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 of confidentiality.

30. Postscript

The CEO and the Chair of the Board of Directors may find it helpful to consider at the conclusion of the investigation whether there are any general matters arising from it which should be brought to the attention of academy staff or of the ACPC as perhaps warranting a review of local policy or procedures. Any training needs of staff might also be considered as part of such a review. The publication of any such information to managers or the ACPC

should preserve confidentiality for the member of staff and children involved in the investigation.

Appendix 1

Investigative procedures after child protection and criminal offence questions have been resolved preliminary to considering disciplinary action – guidance

1. The aim of an investigation is to obtain, as far as possible, a fair and balanced picture, which should be reflected in an accurate written record. The aim is not to prove or disprove an allegation. The investigation is a fact finding exercise and is preliminary to considering the appropriateness of disciplinary action.
2. Undertakings of confidentiality should not be given to either a person making allegations or those interviewed. All evidence compiled in the investigation and to be relied on should be made available to the parties in any subsequent disciplinary proceedings and those giving evidence in the investigation should be so informed.
3. Children or parents making allegations should be interviewed and a record made of their allegations in the form of signed and dated statements (See section SA "Listening to Children"). If these statements are made in the course of an internal investigation then they may be passed to the police should the matter subsequently become the subject of a police investigation. As a matter of good practice, the authors of the statements should be informed that they might be disclosed to the police. In the case of statements, or other evidence gathered in the course of an investigation, made to the police as part of any criminal investigation, they can only be provided to the academy as part of a disciplinary investigation with the consent of the police and the signatories of the statements. Any statements etc. which are used in the course of disciplinary hearings should be disclosed to the subject of the hearings, in accordance with the academy's disciplinary procedures.

4. Preliminary Stages

The person undertaking the investigation should seek specialist advice as necessary, for example, from the LA, and should familiarise him/herself with any relevant procedures and guidelines.

- 4.2 The person investigating should define areas to be investigated draw up a provisional list of those to be interviewed and a list of topics to be discussed, during the investigation check corroborative evidence assess the credibility of the person making the allegation.

5. The Investigation Process

- 5.1 Interviews should be carried out as soon as possible. A statement should be taken from each person, signed and dated. The person carrying out the investigation should have access to assistance as necessary to make the record. A suitable venue and time should be selected to encourage co-operation and the opportunity to be accompanied should be offered to each interviewee. At the beginning of an interview, a general explanation of the purpose of the investigation should be provided.
- 5.2 If, at any stage during the investigation, new evidence emerges which make a referral necessary under local child protection procedures or to the police, the investigation should be held in abeyance immediately following such a referral. Consideration should also be given as to whether suspension is appropriate in such circumstances. The disciplinary investigation should only be resumed if the responsible child

protection agency and/or the police indicate that such resumption will not interfere with any child protection enquiries or criminal investigations.

6. Interviewing A Member Of Staff Who Is The Subject Of An Allegation

- 6.1 The point at which this occurs will depend upon the nature of the allegation and the investigation process.
- 6.2 The members of staff should be informed of:-
- his/her rights under the academy's disciplinary procedure, including the right to representation;
 - the allegation and invited to respond and to make a statement; and
 - the right either to respond or decline to respond.
- 6.3 Full notes should be taken of the interview and the member of staff invited to read and sign them as a true record after the interview. (A copy of the notes will be given to the member of staff.)
- 6.4 The member of staff should be invited to identify any persons who may have information relevant to the investigation. These names should be added to the list of those to be interviewed.

7. Compiling A Report

- 7.1 Once all the relevant persons have been interviewed and all the relevant issues have been explored, the investigation is complete. The details obtained and the statements taken should then be compiled into a report.
- 7.2 Consideration should again be given as to whether there are matters which should be referred under local child protection procedures or to the police and whether suspension is appropriate. If there is such a referral, further proceedings at the academy level should be held in abeyance, and only resumed in accordance with the process outlined above.

8. Subsequent Action

A decision will need to be taken at this stage on whether further action should be taken, including the possible referral of the report under disciplinary proceedings.

References

Keeping Children Safe in Education: Statutory Guidance for schools and colleges. DfE September 2018.

Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children, (July 2018) Home Office, Department of Health, Department for Education and Employment, available from TSO or website www.the-stationery-office.co.uk/doh/worktogether
DfES Guidance Safeguarding Children: Education 2004.

The National Network of Investigation and Referral Support Co-ordinators, established by the DfES, has published a number of guidance documents which are also available on www.teachernet.gov.uk/management/childprotection/guidance.htm.

These include Guidance for Education Staff facing allegations of abuse, Staff subject to allegations: Threshold and Alternatives to suspension, Definitions and Thresholds for Managing Allegations against Education Staff and Managing the Aftermath of Unfounded and Unsubstantiated Allegations.

Appendix 2

What is the harm test?

In simple terms, a person satisfies the harm test if they **may** harm a child or vulnerable adult or put them at risk of harm. In other words it is something a person may do to cause harm or pose a risk of harm to a child or vulnerable adult. Further details are outlined below:

Child - a person aged under 18 years.

Vulnerable Adult - a person aged 18 years or over who is being provided with or receiving a service or activity that is a regulated activity.

Relevant conduct in relation to children

Conduct which:

- endangers a child or is likely to endanger a child
- if repeated against or in relation to a child would endanger the child or be likely to endanger the child
- involves sexual material relating to children (including possession of such material)
- involves sexually explicit images depicting violence against human beings (including possession of such images) [See Secretary of State Guidance on DBS web pages]
- is of a sexual nature involving a child [See Secretary of State Guidance on DBS web pages]

A person's conduct endangers a child if they:

- harm a child
- cause a child to be harmed
- put a child at risk of harm
- attempt to harm a child
- incite another to harm a child.

The harm test in relation to children

A person satisfies the Harm Test if they **may**:

- harm a child
- cause a child to be harmed
- put a child at risk of harm
- attempt to harm a child
- incite another to harm a child

Examples of harm in relation to children

Type of Harm to Children	Meaning	Example
Emotional/ Psychological	Action or inaction by others that causes mental anguish	Emotional harm is the emotional ill-treatment 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 feature age or developmentally inappropriate expectations being imposed on children. It may involve causing children frequently to feel frightened or in danger, or the exploitation or corruption of children. It may involve children witnessing aggressive, violent or harmful behaviour such as domestic violence. Some level of emotional harm is involved in all types of ill-treatment of a child (grooming, harassment, inappropriate emotional involvement), though it may occur alone.
Physical	Any physical contact that results in discomfort, pain or injury	Physical harm may involve assaults including hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child. Physical harm may also be caused when a parent or carer feigns the symptoms of, or deliberately causes ill health to a child whom they are looking after. This situation is commonly described using terms such as factitious illness by proxy or Munchausen syndrome by proxy. Supply drugs to children. Inappropriate / unauthorised methods of restraint
Sexual	Any form of sexual activity with a child under the age of consent	Sexual harm involves forcing or enticing a child or young person to take part in sexual activities, whether or not the child is aware of what is happening. The activities may involve physical contact, including penetrative (e.g. rape or buggery) or non-penetrative acts. They may include non-contact activities, such as involving children in looking at, or in the production of, pornographic material or watching sexual activities, or encouraging children to behave in sexually inappropriate ways. Downloading child pornography. Taking indecent photographs of children. Sexualised texting.
Neglect	Failure to identify and/or meet care needs	Neglect is the 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. It may involve a parent or carer failing to provide adequate food, shelter and clothing, failing to protect a child from physical harm or danger, or the failure to ensure access to appropriate medical care or treatment. It may also include

		neglect of, or unresponsiveness to, a child's basic emotional needs.
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