



## **Allegations Against Staff Policy 2024**

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### **Introduction**

EmpowerEd is committed to providing the highest level of care for both its students and its staff. It is extremely important that any allegations of abuse against a tutor, any other member of staff, or volunteer in our Centre is dealt with thoroughly and efficiently,

maintaining the highest level of protection for the child whilst also giving support to the person, who is the subject of the allegation.

Our policy is in line with legislation and statutory guidance including, but not limited to, the following:

- The Children Act 1989 & 2004
- The Education Act 2002
- The Data Protection Act 1998
- Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children (HM Government 2015).
- Dealing with allegations of abuse against tutors and other staff: Guidance for local authorities, head teachers, school staff, governing bodies and proprietors of independent schools. DfE October 2012.
- Keeping Children Safe in Education (Department of Education 2024).

This policy is designed to ensure that all staff, students and parents or carers are aware of the procedure for the investigation of allegations of abuse in order that all complaints are dealt with consistently, and as efficiently as possible.

We hope that having a clear policy outlined will help students to feel comfortable that they can voice concerns about any member of staff. Allegations must be reported to the Centre Manager immediately. All allegations will be taken seriously and investigated immediately.

This policy only applies to adults currently working at EmpowerEd. Allegations concerning someone who is no longer at the Centre will be reported directly to the police.

## **Purpose**

The procedure for dealing with allegations against staff depends on the situation and circumstances surrounding the allegation. This policy aims to strike a balance between the need to protect children from abuse and the need to protect staff and volunteers for false or unfounded allegations. It must be followed when dealing with allegations, but may be adapted to each case. This policy will be used alongside EmpowerEd's **Complaints Policy** and **Safeguarding Policy**.

This policy will be used in any case where it is suspected or alleged that a member of staff, a tutor or a volunteer at the Centre 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 indicates he or she would pose a risk of harm if they work regularly or closely with children.

Our **Safeguarding Policy** outlines what it means to harm a child.

Cases which are not covered by above will be dealt with under the staff disciplinary arrangements.

## **Timescale**

It is imperative that allegations against staff are dealt with as efficiently as possible to:

- minimise the risk to the child.
- minimise the impact on the child's academic progress.
- ensure a fair and thorough investigation for all parties.

To enable this to happen, all staff, parents, and students should be aware of the procedures set out in this policy.

## **Procedure**

**The procedure for managing allegations of abuse against tutors and other staff follows statutory guidance set out in 'Keeping Children Safe in Education (2023).'**

### **Reporting an allegation**

All concerns of poor practice or possible child abuse by staff should be reported **immediately** to the Centre Manager

Complaints about the Centre Manager should be reported to the Senior Designated Safeguarding Lead (SDSL). The SDSL will then contact the Local Authority Designated Officer (LADO) for further advice.

Staff who are concerned about the conduct of a colleague towards a student are undoubtedly placed in a very difficult situation. They may worry that they have misunderstood the situation and they will wonder whether a report could jeopardise their colleague's career. All staff must remember that the welfare of the child is paramount and must report their concerns immediately.

The Local Authority Designated Officer (LADO) should be immediately informed of all allegations that come to the Centre's attention and appear to meet the criteria so they can consult police and children's social care services as appropriate.

The LADO and the Centre Manager will discuss the nature, content and context of the allegation and agree a course of action to decide whether:

- no further actions are needed.
- a strategy discussion should take place.
- there should be immediate involvement of the police or social care.

The Centre will share available information with the LADO about the allegation, the child, and the person against whom the allegation has been made; the LADO will consider whether a police investigation or a strategy discussion is needed. Other agencies may be invited into the discussion and could include representatives from Health, Social Care or Police.

## **Investigation**

An investigation into the allegations is normally carried out by Children's Social Services or by the Centre. This will be agreed at the initial evaluation stage. Where the Centre is not conducting the investigation it will cooperate with investigative agencies. Internal investigations must be second to any safeguarding investigation and may need to be delayed until the external investigation is complete.

## **Supporting those involved**

### **The person(s) who makes the allegation and their parents/carers:**

Parents and carers will be notified by the Centre Manager if their child makes or is involved in an allegation against staff if they do not already know. However, if the Police or Social Services are to be involved, they will be contacted first and will advise as to what information may or may not be disclosed to the parents. Parents and carers will be made aware of any progress in the investigation, and where there is no criminal prosecution, the outcome will be explained to them. This may be a disciplinary outcome. During a disciplinary hearing the deliberations and information used for making a decision are usually confidential, but parents will be told the outcome.

Parents and carers should also be made aware of the prohibition on reporting or publishing allegations about tutors in section 141F of the Education Act 2002.

Social Services and the Police may be involved, depending on the severity of the case, and will provide the Centre with advice on what type of additional support the child may need.

The Centre's Whistleblowing Policy enables staff to raise concerns or allegations against their colleagues in confidence and for a sensitive enquiry to take place.

### **The employee:**

EmpowerEd has a duty of care to its employees and will do everything to minimise the stress of any allegations and the disciplinary process.

EmpowerEd will provide the employee with a named contact if they are suspended. It is essential that any allegation of abuse made against a tutor or other member of staff or volunteer in the Centre is dealt with very quickly, 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 individual should be advised to contact a representative or a colleague for support. They should also be given access to welfare counseling or medical advice.

The person who is the subject of the investigation will be informed by the Centre Manager as soon as the allegation has been made. The employee will then be advised on what the next course of action will be. However, if the Police or Social Services are to be involved, they will be contacted before the employee and will advise as to what information may be disclosed to the person under investigation.

The Centre Manager will keep the subject of the allegation informed of the progress of the case and any other work-related issues. If that person has been suspended, they will keep them informed of any developments from the Centre. If the employee is a member of a union or any other professional association, they should be advised to contact that body at the outset of the investigation.

The employee may need additional support and the Centre should consider what might be appropriate to best accommodate this. If it is a criminal investigation and the police are involved, they may provide this additional support.

## **Confidentiality**

The Centre will make every effort to guard the privacy of all parties during and after an investigation into an allegation. It is in everyone's best interest to maintain this confidentiality to ensure a fair investigation with minimum impact for all parties.

A breach of confidentiality will be taken seriously and may warrant its own investigation. It is a criminal offence to publish information that could lead to the identification of someone who is the subject of an allegation before they are charged or summonsed.

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

The legislation imposing restrictions makes clear that 'publication' of material that may lead to the identification of the tutor who is the subject of the allegation is prohibited. 'Publication' includes 'any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public'. This means that a parent who, for example, published details of the allegation on a social networking site would be in breach of the reporting restrictions (if what was published could lead to the identification of the tutor by members of the public).

No information will be given to the media.

## **Suspensions**

The Centre will not suspend a member of staff without serious consideration. The Centre will not suspend a member of staff automatically when an allegation has been made. Typically, suspension will only be considered in cases where there is cause to suspect a child or other children at the Centre are at risk of harm or the case is so serious that it might be grounds for dismissal.

The power to suspend is vested to the Centre Director or the SDSL.

Depending on the nature of the case, it may be possible that alternative arrangements are made so that the individual can continue working, but is removed from the student making the allegation. This may take the following forms:

- redeployment within the Centre 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 Centre 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;
- temporarily redeploying the member of staff to another role in a different location, for example to an alternative Centre.

A suspension may be decided upon if it is deemed that the child or other children may be at significant risk of harm, or if the nature of the case warrants a criminal investigation, or where the concern is so serious that it would result in immediate dismissal. The Centre manager (or in the case of allegation against the Centre Manager the Centre Director) holds the power to suspend an employee but will be advised by the Police and or Social Care whether or not a suspension is necessary. 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.

The professional reputational damage that can arise from suspension where an allegation is later found to be unsubstantiated, unfounded or malicious must be considered. It may be that the result that would be achieved by suspension could be obtained by alternative arrangements, for example, redeployment. Where it is deemed that a suspension is appropriate, the employee will receive written confirmation within one working day and will be informed of the reason for the suspension. The person should be informed at the point of their suspension who their named contact is within the organisation and be provided with their contact details.

## **Resignations**

If an employee hands in their resignation when the allegation is made against them or during an investigation, the investigation will still continue until an outcome has been reached, with or without the person's cooperation. They will be given full opportunity to answer the allegation.

It is not appropriate to use compromise agreements in situations which are relevant to these procedures.

The Centre, 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 if there is reason to believe the member of staff has committed one of a number of listed 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.

## **Record keeping**

Except in those cases which have been found to be malicious, detailed records of all allegations made, investigations and outcomes should be kept in the personal file of the person who has been under investigation. This person should be given a copy of the same information. This will enable the Centre to:

- provide all the necessary information for future Centres or Schools if they require a reference. Where DBS checks highlight incidents of allegations that did not result in any criminal charges, records will need to show exactly what happened, what points of action were taken during and after the investigation, and how the result of the investigation was reached
- prevent unnecessary re-investigation in the future if an allegation re-surfaces.

The record will be kept, including for people who leave the organisation, at least until the person reaches normal retirement age or for 10 years if that will be longer, from the date of the allegation.

Allegations that are proven to be false, unsubstantiated, malicious or unfounded will not be referred to in employee references.

Details of any allegation made by a student will be kept in the confidential section of their record.

## **Timescales**

It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations should be investigated as a priority to avoid any delay. The time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation, but these targets should be achieved in all but truly exceptional cases. It is expected that the vast majority of cases should be resolved within one month, more complex cases within three months, and all but the most exceptional cases should be completed within 12 months.

For those cases where it is clear immediately that the allegation is unsubstantiated or malicious, they 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 Centre to deal with it, although if there are concerns about child protection, the Centre should discuss them with the designated officer. In such cases, if the nature of the allegation does not require formal disciplinary action, the employer 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.

## **Action on conclusion of the case**

The following definitions are used when determining the outcome of allegation

investigations:

- **Substantiated:** there is sufficient evidence to prove the allegation;
- **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
- **False:** there is sufficient evidence to disprove the allegation;
- **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
- **Unfounded;** no evidence to prove the allegation is found.

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If the investigation results in the dismissal or resignation of a person, and that person has been charged with a criminal offence, a referral must be made immediately by the Centre to the Disclosure and Barring Service (DBS). The Centre will be advised on this by the Police and/or Social Services.

If it is decided that the employee may return to Centre (after a suspension) then provisions will be put in place by the Centre to ensure that the transition is as smooth as possible. This may involve a phased return for a trial period or the use of another member of staff as a support system in the short term. If the child who made the allegation is still at the Centre, the Centre will consider what needs to be done to manage the contact between employee and child.

## **In respect of malicious or unsubstantiated allegations**

If an allegation is determined to be unsubstantiated 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.

Cases in which an allegation was proven to be false, unsubstantiated or malicious should not be included in employer references. A history of repeated concerns or allegations which have all been found to be false, unsubstantiated or malicious should also not be included in any reference.

Where an allegation is proven to be false, the Centre Manager may refer to Social Services to determine whether the child is in need of special care, or to help to understand if they are being abused elsewhere.

If an allegation is found to be intentionally factitious and malicious, the Centre Manager will decide what the proper sanction will be for the student who made the false allegation.

The Centre Manager has the power to suspend or expel students who make false claims, or refer the case to the police if the Centre thinks a criminal offence has been committed.

If the claim has been made by a person who is not a student, the Centre will hand the information over to the police who may take further action against that person.

## **After the case**

No matter what the outcome is of an allegation of abuse against staff, the Centre will review the case to see if there are any improvements that can be made in its practice or policy that may help to prevent similar cases in the future.

## **Policy Review**

This policy will be reviewed every year by the Management Board.

## Definitions

### Significant Harm

This is the threshold where compulsory social care intervention must take place – this was introduced by the Children Act 1989. Harm includes not only ill-treatment (including sexual abuse and non-physical forms of ill treatment), but also the impairment of physical or mental health and the impairment of physical, emotional, social or behavioral development.

### Abuse

Abuse can be either physical, sexual, emotional harm, or a form of neglect. The definitions of different types of abuse are below:

**Abuse:** A form of maltreatment of a child. Somebody may abuse or neglect a child by inflicting harm, or by failing to act to prevent harm. They may be abused by an adult or adults or another child or children.

**Physical abuse:** A form of abuse which may involve 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 fabricates the symptoms of, or deliberately induces, illness in a child.

**Emotional abuse:** The persistent emotional maltreatment of a child such as to cause severe and adverse effects on the child's emotional development. It may involve conveying to a child that they are worthless, unloved, inadequate, or valued only insofar as they meet the needs of another person. It may include not giving the child opportunities to express their views, deliberately silencing them or 'making fun' of what they say or how they communicate. It may feature age or developmentally inappropriate expectations being imposed on children. These may include interactions that are beyond a child's developmental capability as well as overprotection and limitation of exploration and learning, or preventing the child participating in normal social interaction. It may involve seeing or hearing the ill-treatment of another. It may involve serious bullying (including cyberbullying), causing children frequently to feel frightened or in danger, or the exploitation or corruption of children. Some level of emotional abuse is involved in all types of maltreatment of a child, although it may occur alone.

**Sexual abuse:** Involves forcing or enticing a child or young person to take part in sexual activities, not necessarily involving a high level of violence, whether or not the child is aware



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

**Neglect:** the persistent failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health or development. Neglect may occur during pregnancy as a result of maternal substance abuse. Once a child is born, neglect may involve a parent or carer failing to: provide adequate food, clothing and shelter (including exclusion from home or abandonment); protect a child from physical and emotional harm or danger; ensure adequate supervision (including the use of inadequate care-givers); or ensure access to appropriate medical care or treatment. It may also include neglect of, or unresponsiveness to, a child's basic emotional needs.

### **Position of trust**

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

## Information Guide for Employees Facing Allegations

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

- Harmed a student or put a child at risk of harm.
- Committed a criminal act towards a student.
- Behaved in a way that raises concern about the risk you may pose to children or young people.

### Initial action

As soon as possible after the allegation is made, the Centre Manager should consult the designated officer (LADO) to discuss the next action points, taking advice from social care and the police as needed. The police may advise that you are not told about the allegation immediately.

The Centre Manager's decision in consultation with the LADO will be one, or a combination of the following:

- a. The student is alleged to have suffered, or is likely to suffer, significant harm - which requires immediate referral to social care.
- b. A criminal offence is alleged – this requires referral to social care and police.
- c. The allegation represents poor or inappropriate behaviour – this should be considered under the disciplinary and/or capability procedures.
- d. The allegation is clearly and demonstrably without foundation and no further action will be taken.

If the conclusions of the initial discussions are a. or b., a strategy discussion should take place involving police, social care, the Centre Manager and LADO. You should not be present. The discussion will focus on the needs of the student(s) who may be at risk. It will determine what action should be taken regarding further investigation, but it is not part of any disciplinary procedures.

If the initial discussions conclude the situation is as outlined in c., an investigation will be initiated under the Centre's disciplinary and/or capability procedures.

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

### Types of possible investigation

The types of investigation that may be undertaken are:

- Child protection inquiries by social care
- Criminal investigation by police.
- Disciplinary/capability investigation.

A disciplinary investigation will usually be held in abeyance until external agency investigations are complete, unless prior agreement is reached. Whilst these investigations

should be conducted as speedily as possible, they should also be balanced against the need to be thorough and fair, in line with natural justice. Statements taken in external investigations could be used in subsequent disciplinary proceedings.

## **Suspension**

Suspension is a neutral act, and should not be automatic. Where possible, the decision to suspend should be informed by the strategy discussion, and should only occur when the known facts relating to the allegation indicate:

- A student may be at risk.
- The allegations are so serious that dismissal for gross misconduct is possible.
- Suspension is necessary to allow the conduct of the investigation to proceed unimpeded.

Alternatives to suspension will be considered, e.g. leave of absence, transfer of duties, additional supervision.

Where suspension is being considered, an interview with you will normally be arranged. You have the right to be accompanied by a trade union representative or a colleague. You are advised to seek the assistance of your union representative. If you are suspended, one of his/her roles will be to promote your interests and raise issues that may be of concern to you.

The interview is not an examination of the evidence, but an opportunity for you to make representations concerning possible suspension.

Other people, including other staff, should only be told about the allegation on a 'need-to-know basis'.

Notification may be delayed if the police think this could prejudice an investigation.

Those who will be told of the allegation and likely course of action include you, the student concerned, her parents, the person making the allegation, your manager, the Centre Director, the LADO and the investigating agencies as above.

If you are suspended, those persons likely to be on a disciplinary panel, if convened, will be given limited information so any future disciplinary process is not prejudiced. If the matter becomes common knowledge, it may be necessary to issue a brief statement, agreed by the agencies concerned, to parents, students and the public.

## **Support**

You should expect to be:

- Advised to contact your union representative.
- Given a support contact within the organisation who should keep you up-to-date with the progress of your case.
- Given a contact, if you are suspended, who will update you about normal organisation activities. Social contact with colleagues should not be precluded unless this would be detrimental to the investigation. The type of information and frequency of contact should be agreed, but colleagues should not comment on or discuss the investigation.
- Offered staff counselling service and/or occupational health support.

This may be a stressful time, so in addition to contacting your union representative, you are advised to see your GP if you think your health may be affected.

