Lincoln Christ's Hospital School

Allegations against Staff Policy

Link member of staff: **Martin Mckeown**

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1 Policy Statements

1.1 This procedure applies to all employees of Lincoln Christ's Hospital School. It outlines how allegations against members of staff will be dealt with in accordance with the following legislation:

The framework for managing cases of allegations of abuse against people working with children is set out in *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children*, April 2018[1]. It is relevant for the purposes of s.157 and s.175 of the Education Act 2002.

1.2 This document provides the steps to take where there is an allegation made against any person working for, or on behalf of, Lincoln Christ's Hospital School that he or she 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 that s/he is unsuitable to work with children.

1.3 We will always follow the Lincolnshire Safeguarding Children procedures. Detailed records will be made to include decisions, actions taken and the reasons for these. All records will be retained securely at the school. Whilst we acknowledge such allegations may be false, malicious or misplaced, we also acknowledge they may be founded. It is, therefore, essential that all allegations are investigated properly and in line with agreed procedures

1.4 The school recognises that any allegation is serious and needs to be dealt with in a sensitive, efficient manner, it is also important that those with responsibilities described in this procedure act without delay. All parties involved are likely to be distressed. Any disruption to the normal running of the school should be minimised.

1.5 In this policy, the term 'parent' means all those having parental responsibility for a child.

2. Designated Safeguarding Officer

2.1 The Headteacher shall designate a member of the Senior Leadership Team to act as the Designated Safeguarding Officer (DSO) for the school. The Headteacher should advise the Governors and all members of staff of the school's DSO and inform them of any changes. Visitors to the school should also be informed.

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1 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/419595/Working_Together_to_Safeguard_Children.pdf

3. Receiving an allegation

3.1 All allegations of physical or sexual abuse or of harm made against a member of staff in relation to a student must be reported to the DSO.

3.2 The DSO must make a written record (timed and dated) of what has been reported. If possible, the allegation should be written by the students or the person to whom the allegation was first made.

3.3 Total confidentiality must not be promised to the student or adult making the allegation or disclosure. For example, the person against whom the allegation has been made will have a right to know the substance of the allegation if disciplinary or legal action is to be taken.

3.4 Every effort must be made to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated.

3.5 All staff should be aware of their duty to raise concerns about the attitudes and actions of colleagues. The school recognises that students cannot be expected to raise concerns in an environment where employees fail to do so.

3.6 The DSO will report the allegation to the Headteacher. The DSO must not discuss the allegation with the accused person before reporting it to the Headteacher.

3.7 In the event of the allegation being made against the Headteacher, the DSO is responsible for reporting the allegation to the Chair of Governors, who will undertake the role assigned to the Headteacher throughout this procedure.

3.8 Allegations will also be reported to the Human Resources Manager and to the Local Authority Designated Officer (LADO).

3.9 The DSO will liaise with the LADO to determine if it is appropriate for the allegation to be dealt with by the school or if there needs to be a referral to the police or local authority social care.

3.10 If the person who is subject of the allegation is not a direct employee of Lincoln Christ's Hospital School (e.g. supply agency staff, visiting speaker etc.), the DSO will act as above, but any investigation will be conducted by the person's direct employer. The LADO will liaise between the school and the other agency to see the case is fully investigated and taken to completion.

4 If an external referral is decided

4.1 If a referral is made to external agencies (local authority social care or the police), any internal school enquiries should be held in abeyance until the external services have indicated that they have no further involvement.

4.2 The DSO will make the appropriate referral(s) as per LADO advice.

4.3 The DSO will discuss with the external agency what may and may not be said to the student/ parent, to the member of staff against whom the allegation has been made, and to the initial informants.

4.4 The Headteacher will inform the Chair of Governors that an allegation relating to a member of staff has been referred. The Headteacher will not describe the circumstances of the allegation at this stage.

4.5 The Headteacher, in partnership with the Human Resources Manager, will prepare a standard response to queries by school parents and the media. The response will indicate that:

I. The matter is governed by procedures which the Headteacher is obliged to follow.
II. The matter is in the hands of the appropriate agencies and no further comment can be made.
III. No names can be given for public use.

4.6 When the appropriate agencies have completed their procedures, the Headteacher may decide an internal investigation should be carried out to establish whether or not disciplinary procedures should be invoked. Any disciplinary investigation conducted will follow the school's disciplinary procedure.

5 If an external referral is not made

5.1 An external referral would not normally be made when the Headteacher is satisfied that the child/children is/are not at risk of significant harm or that a reportable criminal offence has not been committed.

5.2 The DSO will take advice from the LADO about what may and may not be said to the student/ parent, to the member of staff against whom the allegation has been made, and to the initial informants.

5.3 The Headteacher will appoint an investigating - this person will not have been involved up to this point and will normally be a senior member of staff.

5.4 The investigating officer will conduct the internal investigation to establish the circumstances. The findings of the investigation will be reported to the Headteacher. If the Headteacher decides that disciplinary action may be appropriate, the school's disciplinary procedure will be invoked.

6 Timescales

6.1 The time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness, and complexity of the allegation.

6.2 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.

6.3 For those cases where it is immediately clear that allegation is unfounded or is malicious, it is expected that the case should be resolved within two weeks or ten working days at most.

6.4 If the nature of the allegation does not require formal disciplinary action, the Headteacher should instigate appropriate action within five working days.

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

6.6 If the strategy discussion or initial assessment decides that a police investigation is required, a target date should be set for reviewing the progress of any police investigation and subsequent consultation of the Crown Prosecution Service (CPS) about any decision to:

a) charge the employee;
b) continue to investigate; or
c) close the investigation

Wherever possible, that review should take place **no later than four weeks after** the initial evaluation.

6.7 Dates for subsequent reviews, ideally at fortnightly intervals, should be set the meeting if the investigation continues.

6.8 Referral should always be made to LA guidelines.

7 Suspension

7.1 Suspension will not automatically follow an allegation but it may be an appropriate step at any stage, depending on the information available. Suspension is not a disciplinary action.

7.2 The decision on suspension is for the Headteacher to take. Where external agencies are involved, any decision on suspension will be made after consultation with them. However, while the Headteacher will give weight to their recommendations, the decision is his. Factors such as the seriousness of the allegation, the perceived risk to children, and the existence or otherwise of previous complaints and the possible conduct of the investigation may be relevant.

7.3 Staff who are suspended will have this confirmed in writing – posted within one working day of the decision - along with the details of their point of contact in the school.

7.4 Staff who are suspended will also be advised to contact their teacher association, trade union or other professional body.

8 Oversight and Monitoring

8.1 The LADO has overall responsibility for the oversight or the procedures for dealing with allegations; for resolving any inter-agency issues; and for liaising with the Local Safeguarding Children Board (LSCB) on the subject. The LADO will provide advice and guidance to the school, in addition to liaising with the police and other agencies. It will also monitor the progress of cases to ensure that they are dealt with in a timely manner and that cases are consistent with a thorough and fair process.

8.2 Reviews should be conducted at fortnightly or monthly intervals depending on the complexity of the case.

9 Information sharing

9.1 In a strategy discussion of the initial evaluation of the case, the agencies involved will share all relevant information they have about the person who is subject of the allegation, and about the alleged victim.

9.2 The DSO and lead staff will take advice form the Human Resources Manager, the LADO, the police and local authority social care services to agree the following:

a) Who needs to know and, importantly, exactly what information can be shared.
b) How to manage speculation, leaks and gossip.
c) What, if any, information can be reasonably given to the wider community to reduce speculation; and
d) How to manage press interest if and when it should arise. In deciding what information to disclose, careful consideration should be given to the provisions of the Data Protection Act 1988, the law of confidence, and, where relevant, the Human Rights Act 1998.

10 Resignations

10.1 The fact an employee tenders their resignation, or ceases to provide their services, must not prevent an allegation being followed up in accordance with these procedures.

10.2 It is important that every effort is made to reach a conclusion in all cases of allegations which may have a bearing on the safety or welfare of children, including any in which the employee concerned refuses to cooperate with the process.

10.3 Wherever possible, the employee concerned should be given a full opportunity to answer the allegation and make representations about it. The process of recording the allegation, gathering supporting evidence, and reaching a judgement about whether the allegation can be regarded as substantiated should continue even if the employee concerned has not taken the opportunity to answer the allegation or where the employee does not cooperate.

10.4 It may be difficult to reach a conclusion in the event of the employee concerned not cooperating and it may not be possible to apply any disciplinary sanctions if the employee's period

of notice expires before the process is complete. However, it is important to reach and record a conclusion where possible.

11 Action Following a Criminal Investigation or a Prosecution

11.1 The police or CPS should inform the school and the LADO straight away when/if:

(a) a criminal investigation and any subsequent trial are completed;

(b) it is decided to close an investigation without charge; or

(c) the prosecution has been discontinued after the person is charged.

11.2 In these circumstances, the LADO should discuss with the Headteacher whether any further action, including disciplinary action, is appropriate and, if so, how to proceed.

11.2 The information provided by the police and/or the local authority social care services should inform the decision on whether any further action is appropriate and how to proceed. The options will depend on the circumstances of the case and the consideration will need to take account of the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

12 Record Keeping

12.1 Details of allegations that are found to have been malicious should be removed from personnel records.

12.2 For all other allegations, it is important that the following is kept in the confidential personnel file of the employee concerned:

(a) a clear and comprehensive summary of the allegation;

(b) details of how the allegation was followed up and resolved; and

(c) a note of any action taken and decisions reached.

A copy of this information should also be given to the employee concerned.

12.3 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 Disclosure and Barring Service (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 if, as sometimes happens, an allegation re-surfaces after a period of time.

12.4 The record should be retained at least until the employee concerned has reached normal retirement age or for a period of 10 years from the date of the allegation, whichever is longer.

13 Action on Conclusion of a Case

13.1 If an allegation is substantiated and the employee is dismissed, the Headteacher should discuss with the LADO as to whether there is a legal requirement for the Headteacher to make a referral to the DBS. This would be in cases where the Headteacher has found that an individual has engaged in conduct, including inappropriate sexual conduct, that has harmed a child, or is likely to harm a child, or if the employee otherwise poses a risk of harm to a child.

13.2 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. The DBS will consider whether to bar the person from working in regulated activity, which will include work in schools and other educational establishments.

13.3 The Headteacher has a statutory duty to make reports and to provide relevant information to the DBS and National College for Teaching and Learning. Referrals should be made as soon as possible after the resignation or removal of the employee involved and within one month of ceasing to use the person's services.

13.4 Upon conclusion of the case where the employee concerned has been suspended and can now return to work, the Headteacher should consider how best to facilitate this. Most people will benefit from some help and support to return to work after a very stressful experience.

13.5 Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate for the employee.

13.6 The Headteacher should also consider how the employee's contact with the child or children who made the allegation can best be managed if they are still a student at the school.

14 Reflection and Further Action

14.1 At the conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the Headteacher. This is to determine whether there are any improvements to be made to the school's procedures or practices in order to help prevent similar events in the future. This should include issues arising from the decision to suspend the employee, the duration of the suspension and whether or not suspension was justified.

14.2 If an allegation is determined to be unfounded or malicious, the LADO should refer the matter to the local authority children's social care services to determine whether the child concerned is in need of their services, or may possibly have been abused by someone else.

14.3 In the event that an allegation is shown to have been deliberately invented or malicious, the Headteacher should consider whether any disciplinary action is appropriate against the person responsible, even if he or she was not a student.

14.4 If, following full investigation, a student is found to have made a malicious allegation then they are likely to have breached the school's conduct for learning policy. The Headteacher will consider whether to apply an appropriate sanction which could include fixed-term or permanent exclusion. A referral to the police may also be considered if there may be grounds for criminal proceedings.

14.5 In September 2010, the CPS published guidance for the police on harassment under the Protection from Harassment Act 1997.

15 References

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

16 Related Procedures, Codes of Practice and Guidance Documents

Guidance Documents

- DfE, *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children*, April 2018.
- The Children Act 1989
- The Children Act 2004
- The Education Act 2002 (s.175 and 157)

LCHS Policies

- LCHS Staff Discipline Policy and Procedure
- LCHS Safeguarding Policy
- LCHS Conduct for Learning Policy