

Plymouth CAST Model Allegations Against Staff Policy

Latest Version: November 2019

Document Control

Changes History

Version	Date	Amended by	Recipients	Purpose
1.0	Dec 2019	Matthew Barnes Deputy Director of Education and Standards	All Plymouth CAST staff	Updated Legislation

Approvals

This policy requires the following approvals:

Board	Chair	CEO	Date Approved	Version	Date for Review
✓			13 th December 2019	1.0	Dec 2021

National/Local Policy

☒ This policy must be localised by schools

☐ This policy must not be changed, it is a National Policy (only change logo, contact details and yellow highlighted sections)

Position with the Unions

Does the policy require consultation with the National Unions under our recognition agreement? ☐ Yes ☒ No If yes, the policy status is: ☐ Consulted and Approved ☐ Consulted and Not Approved ☐ Awaiting Consultation

Distribution

This document has been distributed to:

Position	Date	Version
All Plymouth CAST HTs	February 2019	1.0
All Plymouth CAST DSLs	February 2019	1.0
Plymouth CAST Directors and SEL	February 2019	1.0

Contents

Key Contacts	Page 4
Catholic Vision and Values and Safeguarding	Page 5
Safeguarding Statement and Commitment	Page 5
Purpose	Page 5
1. Safeguarding legislation and guidance	Page 5
2. Policy Principles	Page 6
3. Policy Aims	Page 6
4. Reporting allegations	Page 6
5. Initial consideration	Page 7
6. Cases subject to a School Investigation	Page 7
7. Cases subject to Police Investigation	Page 7
8. Suspension	Page 8
9. Referral to DBS/NCTL	Page 9
10. Supporting those involved	Page 9
11. Confidentially	Page 9
12. Resignations and Settlement Agreements	Page 10
13. Record keeping	Page 10
14. Action in respect of unfounded allegations	Page 10
15. Learning lessons	Page 11
16. Linked Policies	Page 11
Appendix 1: Summary of Process	Page 12

Key Contacts for Safeguarding and Child Protection at the School

Key Personnel

Designated Safeguarding Lead (DSL): _____

Contact details: email: _____ Telephone: _____

Deputy DSL: _____

Contact details: email: _____ Telephone: _____

Second Deputy DSL (if relevant): _____

Contact details: email: _____ Telephone: _____

Designated Looked After Children lead: _____

Contact details: email: _____ Telephone: _____

The nominated safeguarding governor is: _____

Contact details: email: _____ Telephone: _____

The Headteacher is: _____

Contact details: email: _____ Telephone: _____

The Chair of Governors is: _____

Contact details: email: _____ Telephone: _____

Local Authority Designated Officer (LADO): _____

Contact details: email: _____ Telephone: _____

Single Point of Contact for Safeguarding Children: _____

Contact details: email: _____ Telephone: _____

Local Authority Safeguarding contact numbers and emails are held within individual schools

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Governor Safeguarding Lead:	XXXXXXXXXXXX
Designated Safeguarding Lead:	XXXXXXXXXXXX
Date adopted by local governing Board:	XXXXXXXXXXXX

The Mission of the Catholic Church and Safeguarding

“The Catholic Church and its individual members will undertake appropriate steps to maintain a safe environment for all and to practise fully and positively Christ's Ministry towards children, young people and adults at risk and to respond sensitively and compassionately to their needs in order to help keep them safe from harm. This is demonstrated by the provision of carefully planned activities for children, young people and adults, caring for those hurt by abuse and ministering to and robustly managing those who have caused harm.” [Source: National Catholic Safeguarding Commission - Policy Statement February 2016]

Safeguarding Statement and Commitment

XXXX school recognises its moral and statutory responsibility to safeguard and promote the welfare of all children and young people. Staff, governors and volunteers will provide a caring, positive, safe and stimulating environment that promotes the social, physical and moral development of the individual child or young person. This will be underpinned by a culture of openness where both children and adults feel secure, able to talk and believe that they are listened to. We recognise that all staff have a full and active part to play in protecting our pupils from harm, and that the child's welfare is our paramount concern. We will ensure that all adults who have contact with children in our school have been properly vetted and deemed suitable to work and support children in our care/charge. We will also ensure that all adults who have contact with children in our school have been trained to undertake their safeguarding responsibilities effectively. We maintain an attitude that ‘it could happen here’ where safeguarding is concerned.

Purpose

The purpose of this policy is to provide school leaders with clear guidance to follow when managing any allegation made against a member of staff or a volunteer. The policy supplements the Trust's Safeguarding Policy and should be read in conjunction with that policy. When managing allegations against staff, the Trust expects school leaders to put the interests and needs of the children first. Therefore, the assumption should always be ‘it could happen here’. No allegation is too small to be considered using this policy.

1. Safeguarding legislation and guidance

This policy has been developed in accordance with the principles established by the Children Act 1989 and in line with government publications, local guidance and procedures including:-

- Working Together to Safeguard Children July 2018.
- What To Do If You Are Worried a Child Is Being Abused 26th March 2015.
- Keeping Children Safe in Education Guidance 3rd September 2018.
- South West Child Protection Procedures Website (www.swcpp.org.uk).
- Section 175 of the Education Act 2002 (maintained schools only)
- Section 157 of the Education Act 2002 (Independent schools only, including academies and CTCs)
- The Education (Independent Schools Standards) (England) Regulations 2003 (Independent schools only, including academies and CTCs)
- The Safeguarding Vulnerable Groups Act 2006
- The Teacher Standards 2012
- HM Gov Information Sharing 2015

2. Policy Principles

- 2.1. The welfare of the child is paramount.
- 2.2. All children regardless of age, gender, culture, language, race, ability, sexual orientation or religion have equal rights to protection, safeguarding and opportunities.
- 2.3. We recognise that all adults, including temporary staffⁱ, volunteers and governors, have a full and active part to play in protecting our pupils from harm and have an equal responsibility to act on any suspicion or disclosure that may suggest a child is at risk of harm;
- 2.4. This policy and procedure will apply in all cases where it is alleged that a teacher or member of staff (including a volunteer) 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 they are unsuitable to work with children.

3. Policy Aims

- 3.1. This policy aims to ensure that all allegations against staff and volunteers are dealt with thoroughly and appropriately whilst striking a balance between the need to protect children from abuse and the need to protect staff and volunteers from false or unfounded accusations. The policy will do this by providing school leaders with supplementary information relating to the procedures to follow when managing allegations made against staff and volunteers.
- 3.2. All staff and volunteers should understand what to do if they receive an allegation against another member of staff or if they themselves have concerns about the behaviour of another member of staff. Failure to report conduct which meets the criteria set out in 2.4 above may be dealt with under the Trust's Disciplinary Procedure.
- 3.3. There may be up to 3 strands in the consideration of an allegation:
 - a police investigation of a possible criminal offence;
 - enquiries and assessment by children's social care about whether a child is in need of protection or in need of services;
 - consideration by the school of disciplinary action in respect of the individual.
- 3.4. It is for a Headteacher to deal with all cases. If the allegations are against the Headteacher, the Education and Standards Manager (ESM) assigned to the school will assume the role of leading the process in collaboration with the Trust's Designated Safeguarding Lead. All cases will require close and regular liaison between the Trust/school and the Local Authority.

4. Reporting allegations

- 4.1. All allegations which meet the criteria set out in 2.4 should be reported straight away.
- 4.2. Any allegation of abuse by a member of staff on a pupil must be reported to the Headteacher. Should the initial allegation first be made to any other member of staff then that member of staff must either request the person raising the allegation to report it to the Headteacher or if that is not possible to pass details of the allegation to the Headteacher immediately.
- 4.3. Should the allegation be made against the Headteacher then this should be brought to the attention of the school's ESM immediately. The ESM should inform the relevant LADO and the DSL within the trust on the same day they have learned of the allegation.
- 4.4. Should the allegation meet any of the following criteria then the Headteacher should report the allegation to the LADO the same day that the allegation is received: A teacher or member of staff (including a

volunteer) in a school, FE college or other education establishment that provides education for children under 18 years of age 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 they are unsuitable to work with children.

5. Initial consideration

- 5.1. The Headteacher or ESM will discuss the matter with the LADO and, where necessary, obtain further details of the allegation and the circumstances in which it was made. The discussion should also consider whether there is evidence/information that establishes that the allegation is false or unfounded.
- 5.2. If the allegation is not patently false and there is cause to suspect that a child is suffering, or is likely to suffer, significant harm, the LADO will immediately refer the matter to the Police, and ask for a strategy discussion to be convened as soon as possible to decide whether a police investigation is needed. The strategy discussion should include the LADO and the Headteacher (or when the allegation is against the headteacher, the school's ESM).
- 5.3. In cases where the Police determines that the allegation does not meet the threshold of abuse s/he may decide that a strategy discussion is not necessary and that the matter can be dealt with by the School under the Trust's Disciplinary Procedure.
- 5.4. If there is not cause to suspect that 'significant harm' is an issue, but where a criminal offence may have been committed, the LADO should immediately inform the Police and convene a similar discussion to decide whether a Police investigation is needed.

6. Cases subject to a School Investigation

- 6.1. Where, following a strategy discussion, the initial consideration determines that the allegation does not involve a possible criminal offence it will be for the School to manage the next steps.
- 6.2. In such cases, if the nature of the allegation does not require formal disciplinary action, the Headteacher should institute appropriate action within 3 working days and confirm in writing to the LADO what action has been taken.
- 6.3. If a disciplinary hearing is required and can be held without further investigation, this should take place within 15 working days.
- 6.4. Where further investigation is required to inform consideration of disciplinary action, the Headteacher, in consultation with the LADO, the ESM, the Chief Executive Officer and the trust's Human Resources (HR) department, will decide who will be appointed to investigate. In some settings and circumstances it may be appropriate for the disciplinary investigation to be conducted by an independent person. The investigating officer should aim to provide a report to the Headteacher and/or ESM within 10 working days.
- 6.5. Upon receipt of the report on the disciplinary investigation, the Headteacher or ESM should consult the LADO, the Trust's DSL and Chief Executive Officer and HR and decide whether a disciplinary hearing is needed within 2 working days. If a hearing is required it should be held within 15 working days.
- 6.6. In any case in which children's social care has undertaken enquiries to determine whether the child or children are in need of protection, the Headteacher or ESM should take account of any relevant information obtained in the course of those enquiries when considering disciplinary action.
- 6.7. The LADO should continue to liaise with the School and/or trust to monitor progress of the case and provide advice/support when required/requested.

7. Cases subject to Police Investigation

- 7.1. If a criminal investigation is required the Police will aim to complete their enquiries as quickly as possible consistent with a fair and thorough investigation and will keep the progress of the case under review.

- 7.2. A target date should be set at the outset for reviewing progress of the investigation and consulting the CPS about whether to proceed with the investigation, charge the individual with an offence, or close the case.
- 7.3. Wherever possible that review should take place no later than 4 weeks after the initial strategy discussion and, if the decision is to continue to investigate the allegation, dates for subsequent review should be set at that point.
- 7.4. If the Police and/or CPS decide not to charge the individual with an offence, or decide to administer a caution, or the person is acquitted by a Court, the Police should, wherever possible, aim to pass all information they have which may be relevant to a disciplinary case to the Headteacher within 3 working days of the decision. In those circumstances the Headteacher or ESM and the LADO should proceed as described in paragraph 6 above.
- 7.5. If the staff member or volunteer is convicted of an offence, the Police should inform the Headteacher or ESM straight away so that appropriate action can be taken.

8. Suspension

- 8.1. The possible risk of harm to children posed by an accused person needs to be effectively evaluated and managed in respect of the child(ren) involved in the allegations. In some cases that will require the Headteacher or ESM to consider suspension pending resolution of the case.
- 8.2. Suspension should be considered in every case where;
 - there is cause to suspect a child or other children at School/within the Trust is or are at risk of significant harm; or
 - the allegation warrants investigation by the Police and there is a risk that the presence of the employee on site could compromise the course of the Police investigation; or
 - is so serious that it might be grounds for dismissal.
- 8.3. However, suspension should not be an automatic response to an allegation without careful thought and consideration of the circumstances of the case.
- 8.4. The Headteacher must carefully consider whether the circumstances of the case warrant a person being suspended from contact with children at school until the allegation is resolved, and should seek advice from the LADO, Trust DSL, Chief Executive Officer and HR. A risk assessment should be carried out for each individual case to determine whether the member of staff should be suspended. The assessment should take into account the context of the allegation, background information in relation to the member of staff, and any outcome following the strategy discussion. It should also take into account whether a temporary transfer or period of paid leave is appropriate as an alternative to suspension. The assessment should be recorded and a copy kept on file.
- 8.5. The Headteacher or ESM should also consider whether the result that would be achieved by suspension could be obtained by alternative arrangements. For example, redeployment so that the individual does not have direct contact with the child concerned, or providing an assistant to be present when the individual has contact with children.
- 8.6. Whilst the decision to suspend rests with the Headteacher, in cases where a strategy discussion or initial evaluation concludes that there should be enquiries by social care and/or an investigation by the Police, the LADO should canvass views from the Police/social care about whether the accused member of staff should be suspended from contact with children to inform consideration of suspension.
- 8.7. Where an individual is suspended, written confirmation should follow as soon as practicable. The individual should be informed at that point who their named contact is within the School/Trust and provided with their contact details.
- 8.8. In cases where it is decided upon conclusion of the case that a person who has been suspended can return to work, the Headteacher or ESM should consider how best to facilitate such a return. 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. The Headteacher or ESM should also consider how the

person's contact with the child or children who made the allegation can best managed if they are still attending the school.

9. Referral to DBS/NCTL

- 9.1. If an allegation is substantiated and the individual is dismissed or the Trust ceases to use the individual's services, or the individual resigns or ceases to provide his or her services, the Trust should consult the LADO as to whether a referral to the Disclosure & Barring Service (DBS) is required. If a referral is appropriate the report should be made within one month.
- 9.2. If the individual is a teacher, a referral of the case should also be made to the National College for Teaching and Leadership (NCTL) within one month.

10. Supporting those involved

- 10.1. The Trust has a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations and any subsequent disciplinary 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 local authority, social care services or the Police. The individual should be advised to contact his/her trade union representative (if they are a member), or a colleague for support.
- 10.2. The Trust 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. That may include support from occupational health. 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 must not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.
- 10.3. Parents or carers of a child or children involved should be told about the allegation as soon as possible if they do not already know of it. The Headteacher should consult with the LADO about how and by whom they should be informed. However, where a strategy discussion is required, or the Police or local authority children's social care services need to be involved, the Headteacher should not do so until those agencies have been consulted and have agreed the information which can be disclosed to the parents/carers.
- 10.4. Parents/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 deciding what information to disclose, 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.
- 10.5. In cases where a child may have suffered significant harm, or there may be a criminal prosecution, local authority social care services, or the police as appropriate, should consider what support the child or children involved may need.

11. Confidentiality

- 11.1. Every effort should be made to maintain confidentiality and guard against unwanted publicity while an investigation is being investigated/considered.
- 11.2. All proceedings will remain confidential to the parties concerned. The details of proceedings of any investigatory interviews and/or hearings and appeals will not be reported other than to those who have a role in the proceedings.
- 11.3. Any enquiries from the press should be directed to the Trust's Chief Executive Officer.

12. Resignations and Settlement Agreements

- 12.1. The fact that an individual tenders his or her resignation, or ceases to provide services, must not prevent an allegation being followed up in accordance with these procedures. It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process.
- 12.2. Wherever possible the individual 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 regarded as substantiated on the basis of all the information available should continue, even if that cannot be done or the individual 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.
- 12.3. Settlement agreements by which an individual agrees to resign from his/her employment in order to avoid disciplinary action, must not be used in these cases. In addition, there should not be any agreement by the Trust/school as to the content of a future reference. In any event, 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 DBS and NCTL where circumstances require that.
- 12.4. For avoidance of doubt and to provide safeguards, no Settlement Agreement can be entered into without the express authorisation of the Trust's Chief Executive Officer. In any case where Settlement Agreements are approved, the Trust must comply with EFA policy which may include disclosure information which would otherwise be considered confidential.

13. Record keeping

- 13.1. It is important that a clear and comprehensive record of any allegation is made even if police/disciplinary action is not taken or proven. This should include details of the allegation, how the allegation was followed up and resolved and a note of any action taken, including any sanctions imposed.
- 13.2. These notes must be kept on the individual's confidential personnel file.
- 13.3. The purpose of the record is to enable accurate information to be given in response to any future request for a reference if the individual leaves the Trust's employment. It is also important that accurate and detailed information is held in the event that the Disclosure and Barring Service (DBS) makes requests for further information. A comprehensive record of all allegations will provide clarification in cases where a future DBS disclosure reveals information from the police about an allegation which did not result in a criminal conviction. The record should be retained until normal retirement age or for ten years if that is a longer period of time.
- 13.4. A record should also be placed on the child's file.

14. Action in respect of unfounded allegations

- 14.1. If an allegation is determined to be unfounded, the LADO should refer the matter to children's social care to consider whether the child concerned is in need of protective services, or has been abused by another individual.
- 14.2. In the case of a pupil deliberately inventing or making a malicious allegation, the Headteacher should consider taking action in accordance with the school's Behaviour Management Policy.

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

15. Learning lessons

- 15.1. Upon the conclusion of a case in which an allegation is substantiated the LADO should review the circumstances of the case with the Headteacher [and the Chief Executive Officer] to determine whether there are any improvements to be made to the Trust/School's practices to help prevent similar events in the future.

16. This policy also links to our policies on:

Child Protection and Safeguarding
Staff Behaviour Policy / Code of Conduct
Whistleblowing,
Health & Safety
Complaints,
E-Safety, including staff use of mobile phones
Risk Assessment
Recruitment and Selection
Intimate Care

Appendix 1: Summary of Process

Allegation made to the Trust

1. Allegations should be reported to the Headteacher immediately unless the allegation is about the Headteacher, in which case it should be reported to the School's ESM.
2. The allegation should not be investigated by the Trust/school, at this stage.
3. The Headteacher/ESM should report the allegation to the LADO the same day.

Initial consideration

1. The LADO will discuss the matter with the Headteacher/ESM and obtain further details of the allegation and the circumstances in which it was made. The discussion should also consider whether there is evidence/information that establishes that the allegation is false or unfounded.
2. The LADO will immediately refer the allegation to the Children and Young People Safeguarding Manager and ask for a strategy discussion to be convened as soon as possible.
3. The LADO and Headteacher/ESM should be included in the strategy discussion whenever possible.
4. The Headteacher/ESM, in consultation with LADO should consider whether suspension is appropriate.

Action following initial consideration

1. Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be dealt with by the Trust.
2. If the nature of the allegation does not require formal disciplinary action the Headteacher/ESM should institute appropriate action within 3 working days and confirm in writing to the LADO what action has been taken.
3. Where further investigation is required to inform consideration of disciplinary action the Headteacher/ESM in consultation with the LADO will decide who should undertake such an investigation. The investigating officer should aim to provide a report to the Trust/school within 10 working days.
4. On receipt of the report of the investigation the Headteacher/ESM should consult the LADO and decide whether a hearing is needed within 2 working days. If a hearing is required it should be held within 15 working days.
5. In any case in which children's social care has undertaken enquiries to determine whether the child or children are in need of protection, the Trust/school should take account of any relevant information obtained in the course of those enquiries when considering disciplinary action.
6. The LADO should continue to liaise with the Trust/school to monitor progress of the case and provide advice/support when required or requested.

Referral to DBS/NCTL

1. If the allegation is substantiated and the person is dismissed or the Trust ceases to use the individual's services, or the individual resigns or otherwise ceases to provide his/her services, the LADO should discuss with the Trust/school and HR whether a referral to the DBS/NCTL is required (referred to in paragraph 9).

ⁱ Wherever the word "staff" is used, it covers ALL staff on site, including ancillary supply and self-employed staff, contractors, volunteers working with children, and local governors.