



Managing allegations of abuse made against staff Policy and Procedure

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Author/owner: Board of Trustees

Review:

NB. 'Trustees' means the Directors referred to in the Trust's Articles of Association

History of most recent policy changes

Version	Date	Page	Change	Origin of Change e.g. TU request, Change in legislation
V1.0	November 2020		New policy introduced for the Tarka Learning Partnership Central Trust Team and Schools within the Trust	Requirement for central policy to manage allegations made against staff. Reference to KCSIE guidance and legislation.

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1.0 Introduction

This policy applies to all employees, supply teachers, workers, volunteers and agency personnel associated with the Tarka Learning Partnership. This includes those staff working centrally within the Trust and not regularly within a school.

The Trust is required by law to make arrangements to ensure that its functions are carried out with a view to safeguarding and promoting the welfare of children. This includes having effective systems in place to promote safe practice, to prevent unsuitable people from working with children and young people; and to challenge poor and unsafe practice.

This policy and procedure will apply in all cases where it is alleged that a person in a position of trust, who in the course of their work (including volunteering) with children 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 may pose a risk of harm to children
- Behaved or may have behaved in a way that indicates they may not be suitable to work with children

Whilst some behaviours may not constitute a criminal offence, and some may not reach the threshold of harm, consideration will need to be given as to whether they may indicate unsuitability to work with children.

Concerns may arise due to the person's behaviour at work, or outside of work, if it is considered to have implications for their ability to operate professionally. If concerns arise about the behaviour of a person who works or volunteers with children, in regard to their own children; the police and/or the Directorate of Health and Wellbeing and/or Children's Services need to consider further action. This may include informing the Tarka Learning Partnership as the person's employer and the Local Authority Designated Officer (LADO) in order to assess whether there may be implications for children with whom the person has contact at work. The LADO may also become involved in the detail of a person's conduct of their private life when it indicates a lack of appropriate professional judgement.

2.0 Scope

This procedure aims to ensure that all allegations against staff, volunteers, workers and agency personnel 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, malicious or unfounded accusations.

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 1.0 above may be dealt with under the Tarka Learning Partnership's Disciplinary Procedure.

There may be up to three 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.

It is for the Head Teacher to deal with all cases, unless they involve allegations against the Head Teacher, in which case the Tarka Learning Partnership Chief Executive Officer (CEO) will assume the role assigned, in this procedure, to the Head Teacher. All cases will require close and regular liaison between the Tarka Learning Partnership/school and the Local Authority Designated Officer.

3.0 Reporting Allegations

All allegations which meet the criteria set out in 1.0 should be reported straight away.

Any allegation of abuse by a member of staff on a pupil must be reported to the Head Teacher. 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 Head Teacher or if that is not possible to take ownership of the allegation and pass the details to the Head Teacher immediately.

Should the allegation be made against the Head Teacher then this should be brought to the attention of the Tarka Learning Partnership CEO immediately.

For the purposes of this policy Head Teacher is used throughout, where it could refer to the Trust CEO.

Should the allegation meet any of the following criteria then the Head Teacher should report the allegation to the LADO the same day that the allegation is received: A person in a position of trust, who in the course of their work (including volunteering) with children 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
- behaved towards a child or children in a way that indicates they may pose a risk of harm to children;
or
- behaved in a way outside of work, or may have behaved in a way, that indicates that they may not be suitable to work with children. (This would be considered a transferable risk).

4.0 Initial Considerations

The Head Teacher 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.

If the allegation is not patently false and there is a case 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, the Head Teacher and the Director of Safeguarding and Inclusion for the Tarka Learning Partnership.

In cases where the police determines that the allegation does not meet the threshold of abuse they 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.

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. That discussion will involve the Head Teacher and any other agencies involved with the child. The Head Teacher should consider involving the Trust’s Director of Safeguarding and Inclusion.

5.0 Cases subject to school investigation

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.

In such cases, if the nature of the allegation does not require formal disciplinary action, the Head Teacher should institute appropriate action within three working days and confirm in writing to the LADO that action has been taken.

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

Where further investigation is required to inform consideration of disciplinary action, the Head Teacher, in consultation with the LADO, the Chief Executive Officer and the Tarka Learning Partnership HR Leader, will decide who will be appointed to investigate and the allegations to be investigated. 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 Head Teacher within ten working days. Prior to the submission of the report to the Head Teacher, the investigating officer should discuss the preliminary findings with the LADO to ensure all elements of safeguarding have been investigated, that children are kept safe and that the Trust can properly meet its statutory safeguarding responsibilities.

Upon receipt of the report on the disciplinary investigation, the Head Teacher should consult the LADO, the CEO and HR Leader and decide whether a disciplinary hearing is needed within two working days. If a hearing is required it should be held within ten working days.

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 Head Teacher should take account of any relevant information obtained in the course of those enquiries when considering disciplinary action.

The LADO should continue to liaise with the school to monitor progress of the case and provide advice/support when required/requested. This liaison may take place with the Director of Safeguarding and Inclusion and HR Leader for the Tarka Learning Partnership on behalf of the school/Trust.

6.0 Cases subject to police investigation

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.

A target date should be set by the police 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.

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 reviews should be set

at that point.

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 the disciplinary case to the Head Teacher within 3 working days of the decision. In those circumstances the Head Teacher and the LADO should proceed as described in section 5 above.

If the staff member, worker, agency worker or volunteer is convicted of an offence, the police should inform the Head Teacher straight away so that appropriate action can be taken.

7.0 Suspension

The possible risk of harm to children posed by an accused person needs to be effectively assessed and managed in respect of the child(ren) involved in the allegations. In some cases that will require the Head Teacher to consider suspension pending resolution of the case.

Suspension will normally be considered only:

- a. this may facilitate a more objective investigation
- b. the allegation(s), if found, is sufficiently serious that it could constitute gross misconduct and therefore could lead to a dismissal
- c. the employee is the subject of investigation by the police and the alleged offence is considered relevant to the duties of the employee
- d. it could be prejudicial to the school's interests if the employee remains at work
- e. there may be a significantly detrimental impact on colleagues
- f. there is a need to prevent access to any records or systems
- g. there will be media interest / publicity that may negatively affect the school in some way
- h. where there is a reasonable belief that the employee's continued presence at work may put themselves or others at risk
- i. where relationships have broken down.

However, suspension should not be an automatic response to an allegation without careful thought and consideration of the circumstances of the case.

The Head Teacher should complete the Tarka Learning Partnership's Suspension Decision Checklist and Form and 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, CEO, the HR Leader and the Director of Inclusion and Safeguarding. 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. If suspended, the suspension should be reviewed regularly and a note of each review should be kept on file.

Whilst the decision to suspend rests with the Head Teacher, 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 the consideration of suspension.

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 or Tarka Learning Partnership and provided with their contact details.

In cases where it is decided upon conclusion of the case that a person who has been suspended can return to work, the Head Teacher should consider how best to facilitate the 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 Head Teacher should also consider how the person's contact with the child or children who made the allegation can be best managed if they are still attending the school.

8.0 Agency Workers

Where allegations are made against an agency worker, the Head Teacher must inform the Tarka Learning Partnership's Director of Inclusion and Safeguarding, the HR Leader and the LADO. In addition, the agency must be informed of the allegation(s) which have been made.

The school will temporarily cease using the agency worker during an investigation.

The employing agency will work with the school and the LADO during an investigation to determine whether the allegations are substantiated or not. Depending on the outcome of the investigation, the agency will be responsible for taking the appropriate action including referral to the Disclosure and Barring Service and if necessary the Teaching Regulation Agency.

If, following an investigation, the allegation against an agency worker is unsubstantiated, the school may continue to use that agency worker if there remained a temporary staffing requirement.

9.0 Referral to the Disclosure and Barring Service/National College of Teaching and Leadership

If the allegation is substantiated and the individual is dismissed, or the school or Tarka Learning Partnership ceases to use the individual's services, or the individual resigns or ceases to provide his or her services, the school or Trust should consult the LADO as to whether a referral to the Disclosure and Barring Service (DBS) is required. If a referral is appropriate the report should be made within one month.

If the individual is a qualified teacher, a referral of the case should also be made to the Teaching Regulation Agency (TRA), via the National College of Teaching and Leadership, within one month.

10.0 Supporting the employee

The Tarka Learning Partnership 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 LADO, 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. They should also be encouraged to access the Occupational Health services provided by the Tarka Learning Partnership which may provide access to welfare counselling or medical advice. Alternatively, if there are concerns about the staff member's mental health, they should be encouraged to speak to their General Practitioner.

The Tarka Learning Partnership 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 from work to ensure that they are kept informed of both the progress of their case and current work related issues.

11.0 Supporting the parents/carers

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 Head Teacher 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 Head Teacher should not do so until those agencies have been consulted and have agreed the information which can be disclosed to the parent/carers.

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 General Data Protection Regulations, the law of confidence and, where relevant the Human Rights Act 1998.

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.

12.0 Confidentiality

Every effort should be made to maintain confidentiality and guard against unwanted publicity while an investigation is being considered/undertaken.

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.

Any enquiries from the press should be directed to the Head Teacher and to the Tarka Learning Partnership's CEO.

13.0 Resignations and Settlement agreements

The fact that an individual tenders their resignation, or ceases to provide services, or volunteer, 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 co-operate with the process.

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 substantiated on the basis of all the information available should continue, even if that cannot be done or the individual does not co-operate. 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 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 or 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.

For avoidance of doubt and to provide safeguards, no settlement agreement can be entered into without the express authorisation of the Tarka Learning Partnership's Chief Executive Officer. In an case where a settlement agreement is approved, the Trust must comply with ESFA policy which may include disclosure information which would otherwise be considered confidential.

14.0 Record keeping

It is important that a clear and comprehensive record of any allegation is made even if police/disciplinary action is not take 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.

These notes must be kept on the individual's confidential personnel file.

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 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.

A record should also be placed on the child's file.

15.0 Action in respect of unfounded allegations

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.

In the case of a pupil deliberately inventing or making an malicious allegation, the Head Teacher should consider taking action in accordance with the School's Behaviour Management Policy.

If it is clear to the Head Teacher and the LADO that the allegation is demonstrably false or unfounded, the member of staff should be informed verbally 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 Tarka Learning Partnership's Disciplinary Policy and Procedure. The police may also consider taking action against the individual making the allegation.

16.0 Case Review

Upon the conclusion of a case in which an allegation has been substantiated the LADO should review the circumstances of the case with the Head Teacher (and the CEO) to determine whether there are any improvements to be made to the Trust's practices to help prevent similar events in the future.

APPENDIX 1 – SUMMARY OF PROCESS

Allegation made to the school or Tarka Learning Partnership

1. Allegations should be reported to the Head Teacher immediately unless the allegation is about the Head Teacher, in which case it should be reported to the Chair of the LGB and the Tarka Learning Partnership Chief Executive Officer who will inform the LADO immediately.
2. The allegation should not be investigated by the Tarka Learning Partnership or school at this stage.
3. The Head Teacher/CEO should report the allegation to the LADO the same day.

Initial consideration

4. The LADO will discuss the matter with the Head Teacher/CEO 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.
5. The LADO will determine whether a strategy discussion to be convened as soon as possible.
6. The LADO and Head Teacher/CEO should be included in the strategy discussion. The LADO will determine which other agencies should be included in this meeting e.g. Police, social care etc.
7. The Head Teacher/CEO, in consultation with the LADO should consider whether suspension is appropriate.

Action following initial consideration

8. Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be dealt with by the Tarka Learning Partnership/school.
9. If the nature of the allegation does not require formal disciplinary action the Head Teacher/CEO should institute appropriate action within three working days and confirm in writing to the LADO what action has been taken.
10. Where further investigation is required to inform consideration of disciplinary action the Head Teacher/CEO in consultation with the LADO will decide who should undertake the investigation. The investigating officer should aim to provide a report to the Tarka Learning Partnership/school within ten working days, having ensured the LADO is satisfied that all element of safeguarding have been investigated.
11. On receipt of the report of the investigation the Head Teacher/CEO should consult the LADO and decide whether a hearing is needed within two working days. If a hearing is required it should be held within ten working days.
12. 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 Tarka Learning Partnership/school should take account of any relevant information obtained in the course of those enquiries when considering disciplinary action.
13. The LADO should continue to liaise with the Tarka Learning Partnership/school to monitor progress of the case and provide advice/support when required or requested.

Referral to the DBS/TRA

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