



# **PONTEFRACT**

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## ACADEMIES TRUST

### **DEALING WITH ALLEGATIONS AGAINST STAFF POLICY**

Trust Board Approval Date	19 November 2018
Implementation Date	1 December 2018
Planned Review Date	September 2019
Reviewed by:	Director of Finance Business and Operations

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# 1. Introduction, purpose and scope

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## 1.0 INTRODUCTION

1.01 The Pontefract Academies Trust (“The Trust”) is committed to giving all employees the support and encouragement they need to raise aspirations, unlock potential and work to achieve excellence through encouraging a “can do” culture, across all areas of the Trust.

1.02 The Trust expects all its employees to recognise their employment obligations to the Trust, pupils, staff and their communities. Employees must conduct themselves properly at all times in accordance with the Trust’s policies and procedures.

## 1.1 PURPOSE

1.1.1 The purpose of this policy is to outline how Trust managers and leaders will deal with allegations that are made against staff. This document should be read in conjunction with the most recent Keeping Child Safe in Education guidance.

1.1.2 This policy applies when it is alleged that an individual 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 may pose a risk of harm to children.

1.1.3 This policy will:

- comply with Department for Education guidance (“Working Together to Safeguard Children 2015” and “Keeping Children Safe in Education 2018”) and any subsequent guidance.
- provide a consistent and transparent approach to how allegations made against a member of staff will be dealt with.
- establish a process which is fair to all employees.

## 1.2 SCOPE

1.2.1 This policy applies to all employees, governors, contracted staff, Trustees and volunteers who are engaged with the Trust. The term ‘member of staff’ is used throughout this policy, but applies to individuals who are employed, or engaged in these capacities, including volunteers.

1.2.2 All matters relating to allegations are dealt with under the Trust’s Child Protection procedures and therefore confidentiality is essential. Information should be shared on a “need to know” basis only. All information will be stored in accordance with the Trust’s Information Governance policies and reflecting current data protection legislation.

1.2.3 The Trust has a duty of care towards its employees. Effective support will be provided for an employee facing an allegation and the Trust will undertake to deal with the matter efficiently, fairly and consistently. This is to provide protection for the child as well as supporting the adult.

1.2.4 The Trust recognises that any allegation is serious and needs to be dealt with in a sensitive and efficient manner. Throughout this process it is essential that any allegation of abuse is dealt with very quickly, in a fair and consistent way that provides protection

# 1. Introduction, purpose and scope

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for the child and, at the same time supports the individual, who is the subject of the allegation.

- 1.2.5 The Trust has a legal duty to make a referral to the DBS where they think that an individual has engaged in conduct that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child. Keeping Children Safe in Education provides the criteria for a DBS referral
- 1.2.6 Allegations may be received in a variety of ways, including:
- direct complaint by a student to another staff member
  - direct complaint by a parent/carer to, or about, a staff member
  - concerns raised by parties who may have been told about, or witnessed, abuse
  - direct contact by parent/carer to the local authority, or other external agency
  - anonymous referral
  - direct complaint to the assessment team or the police.
- 1.2.7 This policy covers allegation(s) about a member of staff, where a child may be at risk of harm. Where pupils/students are not involved in a complaint, this will be dealt with through the staff disciplinary or grievance policies, depending on the nature of the issue.

## 2. Roles and Responsibilities

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### **2.0 CEO/EXECUTIVE HEADTEACHER/ HEADTEACHER/HEAD OF SCHOOL/NOMINATED MANAGER RESPONSIBILITIES**

- 2.01 The CEO has responsibility to ensure that this policy is applied fairly and consistently across the Trust.
- 2.02 Throughout this procedure, the term “Manager” will refer to the CEO/Executive Headteacher/Headteacher/Head of School or nominated Manager with the delegated authority to take action.
- 2.03 Nominated leaders who make decisions, or consider appeals, under this policy will make decisions objectively, and fairly, in line the Trust’s Disciplinary Policy and child protection policies and procedures.
- 2.04 Leaders should ensure that all new staff are made aware of Academy’s child protection and safeguarding procedures. This includes introduction to the Staff Code of Conduct.
- 2.05 Leaders and managers will ensure that when volunteers, supply teachers or other visitors are invited to work with students are made aware of the Academy’s child protection and safeguarding procedures.
- 2.06 Appropriate leaders will be kept informed of any ongoing investigations into allegations, but will not become involved in, nor have details linked to, the allegations. Any such knowledge would prejudice their possible involvement in any future appropriate action which they may be advised to take.
- 2.07 Issues relating to allegations are of a confidential nature. Information should only be shared on a “need to know” basis. Where it becomes apparent that there is a potential impact or perceived impact of any allegation on the Trust the CEO will be informed. All details will be anonymised.

### **2.1 EMPLOYEE RESPONSIBILITIES**

- 2.1.1 All staff, volunteers and governors have a duty to deal with children in a professional manner, this includes respecting the confidential and sensitive nature of dealing with allegations against staff.
- 2.1.2 All staff are responsible for attending relevant training events, undertaking training programmes, reading training materials and updating their professional knowledge.
- 2.1.3 All staff are responsible for raising concerns, as outlined in this policy.
- 2.1.4 All staff should be aware that should they take actions that compromise an investigation or breach this policy, this could result in disciplinary action against themselves.

### **2.2 HUMAN RESOURCES MANAGER/ADVISOR ROLE**

The Human Resources Manager/Advisor will provide advice and assistance to managers regarding this procedure. The Human Resources Manager/Advisor reserves the right to attend any meetings held in relation to any of the procedures set out in this document.

## 2. Roles and Responsibilities

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They will also attend any hearings which may lead to dismissal. This will ensure that advice is available on procedural issues and any employment legislation matters.

## 3. Initial considerations

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### 3.0 INITIAL CONSIDERATIONS

- 3.01 It is important to note that not all allegations will meet the criteria in 1.1.2 and when dealing with allegations common sense and good judgement should be applied.
- 3.02 Many cases will not require consideration by the Policy or further investigation by the local authority children's social care services. In many cases local arrangements will be followed to resolve cases.
- 3.03 Any allegation of abuse by a member of staff against a student must be reported immediately to the Designated Safeguarding Lead (DSL) or the Head of School. In the absence of either of these staff, an allegation should be reported to a deputy DSL.
- 3.04 Where the allegation is against the DSL then the allegation must be reported to the Head of School.
- 3.05 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 DSL or, if that is not possible, themselves pass details of the allegation to the DSL immediately.
- 3.06 When an allegation has been received the DSL, Head of School should discuss the nature of the allegation. Relevant information may be gathered at this stage to establish the nature, content and context of the allegation.

### 3.1 ALLEGATIONS AGAINST THE HEAD OF SCHOOL/EXECUTIVE HEADTEACHER

- 3.1.1 Should the allegation be made against the Head of School then this should be brought to the attention of the CEO immediately. In such cases where the policy refers to the involvement of the Head of School then "the Chair of the School Governance Committee" should be substituted for the Head.
- 3.1.2 Should the allegation be made against the CEO then this should be brought to the attention of the Chair of the Board of Directors immediately. In such cases where the policy refers to the involvement of the CEO then "the Chair of the School Governance Committee" should be substituted for the Head.

### 3.2 RECEIPT OF A COMPLAINT

- 3.2.1 Once a complaint has been made, the student making the allegation should not be left alone, or with other students, until there have been consultations with the DSL and a course of action agreed, including the appropriateness of the student remaining in school/lessons.
- 3.2.2 Details of the allegation should be obtained in writing using a statement, signed and dated by the person receiving the allegation and the student or person who is making the allegation. The statement can either be completed by the individual or on their behalf, but all statements must be countersigned by the person giving the statement as a true record.
- 3.2.3 Under no circumstances, should the member of staff receiving the complaint seek to investigate the allegation themselves, interview or approach students about the matter.

## 3. Initial considerations

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3.2.4 Under no circumstances should the member of staff receiving the complaint notify the member of staff who is subject of the allegation that they have received this information.

### 3.3 INFORMING THE DESIGNATED OFFICER (DO)

3.3.1 The DO (previously referred to as the LADO) should be informed of all allegations that appear to meet the criteria in 1.1.2. The DO will consult the Police and children's social care, as appropriate.

3.3.2 Leaders should note that at anytime the DO is available for advice and guidance and should be referred to if they are unsure of any element of the initial consideration stage.

3.3.3 If there is cause to suspect that a child is suffering or is likely to suffer significant harm, the DO will make the decision whether or not a strategy meeting will be held, in accordance with their procedures. In these circumstances the strategy discussion will be led by the DO who will also invite representation from the Academy. This will usually be a member of senior leadership.

3.3.4 Dependant on the circumstances the Trust will give careful consideration as to whether the individual should be suspended. In cases where suspension is being considered the appropriate section in the Trust's Disciplinary Policy should be referred to. Suspension should be considered when there is no other reasonable alternative available to the Trust. Keeping Children Safe in Education (KCSIE) provides further advice on Suspension and should be referred to in these situations.

3.3.5 This initial stage may lead to a decision that no further action should be taken with the individual facing the allegation. If this is the case this should be recorded by the Manager and the DO. This will also agree what is put in writing and by whom.

### 3.4 AFTER REFERRAL TO THE DO

3.4.1 Where an allegation has been referred to the DO the Manager will not take any further action until they have received advice from the DO on the next appropriate next steps. In the case of serious allegations, where the DO calls a strategy discussion, advice should be taken as to what information can be shared with the individual, and when.

3.4.2 Where the Manager has referred the allegation to the DO, and they do not believe that the Police or other agencies need to be informed the DO will advise the Manager on next steps.

3.4.3 At this stage the options open to the Manager will depend on the nature and circumstances of the allegation, the evidence available and the any other relevant information. This will range from no further action, to dismissal in the case of employees and to no use the person's services in the future, for contracted or volunteer resource.

### 3.5 MAKING THE INDIVIDUAL AWARE OF THE ALLEGATION

3.5.1 Following referral to the DO, if on advice, the DO suggests that the matter can be dealt with using local arrangements and procedures the individual who is subject to the allegation should be made aware of the allegations. See section 4



### 3. Initial considerations

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- 3.5.2 Where, following referral to the DO, external agencies, including the Police or social services are required to be involved the Manager will seek advice on what information can be shared and the HR Manager will advise on managing the employment position.

## 4. Investigation stage

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### 4.0 INVESTIGATION STAGE

- 4.01 The investigation stage will follow the Trust's Disciplinary Policy. To ensure that an objective, thorough investigation is undertaken this would usually be a member of senior leadership who is appointed as the Investigating Officer. The Trust reserves the right to appoint an external independent investigator. This is to ensure that that the matter is dealt with as soon as possible.
- 4.02 The investigation will determine if disciplinary action will be considered and at all stages of the process the member of staff will have right to representation, either with a Trade Union representative or work colleague.
- 4.03 In preparing their investigation, the investigating officer will pay particular regard to the following:
- i) a list of potential witnesses, which will include the alleged victim.
  - ii) if the incident occurred in a classroom (or other public area), a random selection of students will be interviewed, if appropriate.
  - iii) assessing the credibility of the person making the allegation. In doing so, consideration should be given to the issues of listening to young people, treating each allegation seriously and professionally and ensuring that the person does not feel intimidated in making the allegation.
  - iv) consent from parents/guardian, if appropriate.
- 4.04 In undertaking the investigation the investigating officer will pay particular regard to the following:
- i) the student should be listened to but not interviewed or asked to repeat the account.
  - ii) avoid questions, particularly leading questions.
  - iii) the student should not be interrupted when recalling significant events.
  - iv) all information should be noted carefully, including details such as timing, setting, who was present and what was said, in the child's own words. The account should be obtained verbatim or as near as possible.
  - v) care should be taken not to make assumptions about what the child is saying or to make interpretations.
  - vi) 'listened to' means just that; on no account should suggestions be made to children as to alternative explanations for their worries.
  - vii) all actions subsequently taken should be recorded.
- 4.05 If during the investigation it becomes apparent that there may be other child protection issues emerging, the investigation will be stopped and referred to the DO for further advice. (As outlined in Section 3).
- 4.06 Once the investigation is concluded a recommendation will be made to move to disciplinary action or to deal with the matter through informal counselling. Usually, the DO will be informed of this decision.

### 4.1 SUPPORT FOR EMPLOYEES

- 4.1.1 The Trust has a duty of care to employees. Managers will act in a way to minimise any stress that is inherent in dealing with allegations made against staff. As part of this support the individual will be made aware of the nature of the allegations as soon as possible and an outline of the course of action the employer intends to take.

## 4. Investigation stage

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- 4.1.2 Any member of staff subject to allegations made against them are advised to contact their Trade Union, or professional association. In addition, the Trust can offer employee support by way of Occupational Health or counselling.
- 4.1.3 An appropriate, more senior, member of staff will be appointed a colleague who will keep the individual informed of progress and be available for any questions or support. This person could be a senior or middle leader who is not directly involved in the ongoing investigation

### 4.2 PARENTS AND CARERS

- 4.2.1 Parents (or carers) of the child(ren) involved should be informed of the allegation, if they do not know of it already. This is with the exception where the strategy discussion provides alternative advice.
- 4.2.2 Throughout any investigation parents should be informed of the progress of the investigation, including its outcome.

### 4.3 CONFIDENTIALITY

- 4.3.1 In all cases it is extremely important to maintain confidentiality throughout the dealing with allegations process. This is to guard against unwanted publicity (internally and externally) whilst an allegation is being considered or investigated.
- 4.3.2 It is an offence for anyone to put sensitive information regarding an allegation against a Teacher into the public domain prior to any charge or subsequent court appearance. All staff need to pay particular attention to this legislation when dealing with enquiries from parents or the media.
- 4.3.3 Whilst this legislation is in place for Teachers, the same applies for any staff who are subject to allegations and will respect the confidentiality of all staff and students until the information appears in the public domain via the legal system.
- 4.3.4 "Publication" is defined in Law as speech, writing, or other relevant communication which is addressed to the public at large or any section of the public. This includes any social media content.
- 4.3.5 The Manager will take advice from the DO on agreeing what information can be shared and how to manage speculation, media enquiries or leaks. The Head of School should seek advice from the CEO and the Trust media/PR providers as to how to share information or deal with enquiries.
- 4.3.6 This does not prevent the Trust from sharing information will authorities and agencies where a legal duty applies and where the intention is to safeguard children and young people. Advice should be sought from the DO in these cases.

### 4.4 TIMESCALES

- 4.4.1 The Trust is committed to dealing with allegations against staff in a timely and efficient manner. This is both to support the individual, the child(ren), and to ensure an appropriate outcome is reached without delay.

## 4. Investigation stage

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4.4.2 As a guide the following timescales should be adhered to:

- Where it is clear that the allegation is unsubstantiated or malicious these should be resolved in one week.
- Where disciplinary action will not be taken appropriate (informal) action should be taken within three working days.
- Where disciplinary action is required this should be within 15 days of the investigation concluding.
- 80% of cases should be resolved in one month and 90% in three months.
- All cases should be concluded within 12 months.

### **4.5 CRIMINAL INVESTIGATIONS AND PROSECUTIONS**

4.5.1 The Police will inform the Trust when a criminal investigation or prosecution is complete, or it is decided to close an investigation. In these circumstances the DO will discuss with the Manager how to proceed. This may include disciplinary action and information provided by the Police or social care services will inform this decision.

4.5.2 The Trust reserves the right to take disciplinary action, up to and including dismissal, whilst criminal investigations or prosecutions are ongoing.

4.5.3 Any internal disciplinary action will not prejudice any Police investigations.

## 5. Outcome

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### 5.0 OUTCOME

Following the investigation into the allegation, the Investigating Officer will provide an outcome. The outcomes are defined below:

**Substantiated:** there is sufficient evidence to prove the allegation and the matter should be referred to a disciplinary hearing;

**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 to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

**Unfounded:** this reflects cases where there is no evidence or proper basis which supports the allegation being made.

Each outcome is dealt with below:

### 5.1 OUTCOME OF INVESTIGATION – SUBSTANTIATED

5.1.1 If the investigation concludes that the matter is substantiated, then it would usually move to a disciplinary hearing following the Trust Disciplinary policy and procedures. If the matter is not serious enough to pursue a full disciplinary hearing, then the employee may be issued with a management instruction, as outlined in the Disciplinary policy.

5.1.2 Documents relating to an investigation must be retained in a secure place, together with a written record of the outcome of the investigation. Where disciplinary action has been taken this will be retained on the member of staff's personal and confidential file in accordance with section 5.4.

5.1.3 If the individual is dismissed or resigns before an investigation is complete the process should still be followed. The individual should be made aware of this and informed about the employer's statutory duty to report the case to the DBS and/or the Department for Education for consideration for their debaring from further employment. It is important to reach and record a conclusion in all cases to ensure the safety or welfare of children.

### 5.2 OUTCOME OF INVESTIGATION – MALICIOUS, FALSE, UNSUBSTANTIATED AND UNFOUNDED

5.2.1 Should the investigation conclude that the allegation is malicious there will be no further action against the member of staff. Documents relating to malicious allegations will not be retained on personnel records.

5.2.2 Where allegations are found to be malicious, the Head of School will determine if the student should be disciplined. Consideration will be given as to whether the student needs further support or whether the allegation could be an indicator of other concerns before agreeing a sanction.

5.2.3 Where allegations are found to be false or unsubstantiated there will be no further action against the member of staff.

## 5. Outcome

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5.2.4 If the investigation concludes that the allegation is unfounded. This would be used to reflect cases where there is no evidence or proper basis which supports the allegation being made.

It may also indicate that the person making the allegation misinterpreted the incident, was mistaken about what they saw or may not have been aware of all the circumstances. In these cases, there will be no further action against the member of staff.

5.2.5 In all cases the member of staff will be informed, in writing, of the outcome and any other action taken. In line with the Disciplinary Policy consideration should be given as to whether informal action (including training, advice and guidance) would be appropriate to support the member of staff and avoid difficult situations in the future.

5.2.6 Documents relating to an investigation (other than allegations shown to be malicious) must be retained in a secure personnel file, together with a written record of the outcome of the investigation and any support provided.

5.2.7 The purpose of this record is to enable accurate information to be given in response to any future request for a reference, where appropriate.

### 5.3 SETTLEMENT AGREEMENTS AND AGREED RESIGNATIONS

The Trust will not agree to a settlement agreement or agreed resignation in which the employee seeks to avoid a full investigation and/or referral to the DBS. Refer to most recent statutory guidance (e.g. KCSIE 2018) for further advice.

### 5.4 REFERENCES AND RECORD KEEPING

5.4.1 In line with KCSIE 2018, records of allegations should be retained at least until the accused has reached normal pension age or for a period of 10 years from the date of the allegation, whichever is longer.

5.4.2 Where an allegation was proven to be false, unsubstantiated or malicious these should not be referred to in employer references.

### 5.5 INFORMING PARENTS/CARERS

5.5.1 Parents (or carers) should be informed of the outcome of any investigation. Where there is no criminal prosecution this includes the outcome of the disciplinary process. Parents should be told the outcome in confidence.

5.5.2 However, when deciding what information to share this does not normally include the deliberations of the disciplinary hearing and the information that was used to reach a conclusion. Consideration should be given to GDPR and Data Protection Act when sharing this information.

### 5.6 INFORMAL ACTION

Informal action may include one, or a combination of the following. All actions should be recorded, with a date of completion. This would be recorded as part of the 'management instruction'.

## 5. Outcome

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- consider whether support, counselling and/or informal professional advice for the employee is appropriate and the form this might take and make arrangements to offer such appropriate support to the employee;
- consider whether CPD, or other training is appropriate, the form this might take and appropriate arrangements;
- a temporary change in role or other duties the employee should undertake whilst they seek this support/CPD.
- Re-reading policy/documents
- Refresher training or additional training sessions.

### 5.7 ON CONCLUSION

- 5.7.1 If the allegations are substantiated and the individual is dismissed (or the Trust ceases to use their services, in the case of contractors) a decision should be made whether or not to refer the matter to the DBS and/or the Department of Education.
- 5.7.2 The decision to refer the matter to the DBS and/or Department of Education should be taken by the HR Manager, DO and Head of School.
- 5.7.3 The DBS have the authority to include the individual on barred lists and the Department of Education have the authority to impose sanctions on the individual teaching.
- 5.7.4 The individual will be informed that a referral is being made.
- 5.7.5 There is a legal obligation to refer to the DBS where they think an individual has engaged in conduct that harmed (or is likely to harm a child, or if a person otherwise poses a risk of harm to a child.

### 5.8 LEARNING LESSONS

An important element of this policy and how allegations against staff are dealt with is learning lessons. Managers and leader involved in each case should review the case and agree what improvements (if any) can be made to Child Protection or safeguarding procedures or how the allegation process was managed. These maybe improvements in an individual Academy or Trust wide.