



EMMANUEL
SCHOOLS FOUNDATION

Statement of Procedures for Dealing with Allegations of Abuse against Staff



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Statement of Procedures for Dealing with Allegations of Abuse against Staff

a. Introduction

Emmanuel Schools Foundation (“Trust”) takes its responsibility of care for its students seriously. The Trust recognises that any possibility that a member of staff may have harmed a student must be investigated thoroughly, and in a way that does not prejudice either the student or the member of staff. Any investigation of an allegation of abuse against a member of staff must follow the objective, professional standards and routines described here. As a Trust with a distinctive Christian ethos where everyone is valued, challenged, and inspired, our Core Virtues of love, wisdom, fairness, self-control, courage humility and integrity are central to how we operate. In designing these routines and standards, we recognise the overarching requirement for confidentiality and in all cases, we will follow the guidance in Part 4 of the latest iteration of Keeping Children Safe in Education (KCSIE). Staff will also need to ensure that they are familiar with the Staff Code of Conduct and Disciplinary Rules (see Employment Handbook) and, also clearly understand the provisions of their schools’ Safeguarding Policies and Procedures.

b. The Law

The framework for managing cases of allegations of abuse against people who work 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 which provides an overview of how allegations should be handled. It is relevant for the purposes of s.157 and s.175 of the Education Act 2002.

Other legislation:

- The Children Act 1989
- Section 175 of the Education Act 2002 (local authorities, governing bodies of maintained schools and institutions in further education sector)
- Section 157 of the Education Act 2002
- Education (Independent School Standards) (England) Regulations 2014
- The Children Act 2004
- Section 11 of the Children Act 2004 (other agencies).

c. About these Procedures

This statement of procedures has two sections covering the two levels of allegation/concern:

- i. Allegations that may meet the harms threshold
- ii. Allegations/concerns that do not meet the harms threshold, or “low level concerns”.

d. Initial Allegation made to the Trust or school

Any allegation of abuse by a member of staff towards a student must be reported to the Principal. Should the initial allegation first be made to any other member of staff then that member of staff must either request that the person raising the allegation report it to the Principal or, if that is not possible, pass details of the allegation to the Principal themselves immediately.

Should the allegation be made against the Principal then this should be brought to the attention

of the Chair of Governors immediately. The Chair of Governors will advise the CEO.

SECTION ONE: ALLEGATIONS THAT MAY MEET THE HARMS THRESHOLD

Should the allegation meet any of the following criteria, and if the allegation is not blatantly false, then the Principal/Chair of Governors should report the allegation to the Local Authority Designated Officer the same day that the allegation is received:

A teacher or member of staff (including a volunteer) in 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;
- behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children; or
- behaved or may have behaved in a way that indicates they may not be suitable to work with children

The last point above includes behaviour that may have happened outside of school that might make an individual unsuitable to work with children (“transferable risk”). An assessment of “transferable risk” to children with whom the person works should be undertaken, with advice from the local authority designated officer as appropriate.

e. Initial Consideration

The Principal¹ will discuss the matter with the Local Authority Designated Officer (LADO) and provide any further details of the allegation and the circumstances in which it was made. The Principal should not investigate the allegation at this stage but should take necessary and appropriate action to ensure children’s safety and welfare whilst giving due consideration in determining actions to other factors (e.g. risk of jeopardising an investigation; risk to reputation of a member of staff – also see Section 10). The discussion will also consider whether there is evidence or information that establishes that the allegation is false or unfounded. Where there is a reasonable basis to believe that an allegation has substance, then the Head of Human Resources should be informed as the principles of the Trust’s Disciplinary Policy are likely to apply (see the Employment Handbook).

If there is no cause to suspect that “significant harm” is an issue, but a criminal offence might have been committed see also section 7.

If there is cause to suspect that a child is suffering, or is likely to suffer significant harm see also section 8.

f. Action Following Initial Consideration

Where the initial discussion leads to no further action, the Principal and the LADO should:

- record the decision and justification for it; and,
- agree on what information should be put in writing to the individual concerned and by whom.

¹ Where the employee subject of the allegation is the Principal, the reference to “Principal” should be read as “Chair of Governors” throughout this statement of procedures.

Where the initial consideration determines that the allegation does not involve a possible criminal offence, the LADO will likely refer the matter back to the Principal to deal with.

Where, after reasonable investigation, the Principal determines that the nature of the allegation does not warrant formal action under the Trust Disciplinary Procedure, the Principal should institute appropriate informal action within three working days.

Where the Principal determines that informal action is inappropriate, the formal disciplinary procedure should be invoked and prior to notifying the individual, the LADO should be consulted regarding the appointment of an appropriate Investigating Officer.

The Principal should consult the LADO, and the Head of HR with regards to excluding the individual from the workplace for the duration of the investigation. However, it remains a matter for the Principal and the Trust in the context of the Disciplinary Policy to determine whether an individual should be suspended in this way. Where a suspension is considered appropriate, it shall not be considered a disciplinary measure and the individual will be paid in full for time so spent away from work (see also section 10) The investigating officer should aim to provide a report to the Principal within 10 working days.

On conclusion of the investigation, the Principal should consult the Local Authority Designated Officer as soon as possible thereafter to inform of the LADO of his/her decision as to the requirement for a disciplinary hearing. If a hearing is needed it should be held as soon as reasonably practicable; arrangements for the hearing will be made under the auspices of the Disciplinary Procedure.

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

The Local Authority Designated Officer will continue to liaise with the School to monitor progress of the case and provide advice or support when required or requested.

g. Cases Where a Crime May Have Been Committed

If there is no cause to suspect that 'significant harm' is an issue, but a criminal offence might have been committed, the Local Authority Designated Officer will immediately inform the police and convene a similar strategy discussion to decide whether a police investigation is needed. That discussion will also involve the School (Principal and Head of HR) who will ask the police to obtain consent from the individuals involved to share their statements and evidence in any investigation for use in any subsequent disciplinary process

Where the involvement of Children's Social Work Services is not required as the student is not assessed to be a risk of 'significant harm' but a police investigation continues, the Local Authority Designated Officer will agree with the police, the School and any other agency involved with the child the nature of the allegation and how this must be addressed.

This joint evaluation discussion will take place within one working day of the referral and must consider how to progress enquiries; e.g., should a criminal process, parallel with a disciplinary process, or whether disciplinary action needs to be suspended until police enquiries/prosecution is/are completed? It is essential that the Head of HR is involved in this consideration.

These investigations will be reviewed by the police no later than four weeks after the joint evaluation discussion, and thereafter at fortnightly or monthly intervals.

If the police and/or the Crown Prosecution Service (CPS) decide not to charge the individual with an offence, or decide to administer a caution, or if the person is acquitted by a court, the police should pass all information they have which may be relevant to a disciplinary case to the School without delay. In those circumstances, the Principal should deal with the case in consultation with the LADO and Head of HR.

If the person is convicted of an offence, the police should also inform the employer straight away so that appropriate action can be taken.

h. Allegations Which Are Likely to Necessitate an Immediate Referral for Child Protection

The following situations will require immediate referral to child protection:

- Where the student has suffered, is suffering, or is likely to suffer significant harm;
- Where the student alleges that a criminal offence has been committed; and/or
- Any allegation of a sexual nature.

The Principal should be aware that some other complaints may also be regarded as child protection issues, and therefore each complaint should be carefully considered in consultation with the Local Authority Designated Officer before taking any action.

Where allegations of the above are referred to Children's Services, subsequent action will be in accordance with the Local Safeguarding Children Board procedures.

i. Confidentiality & Information Sharing

The agencies involved in a strategy meeting, or during the initial assessment of the case, will and should share all relevant information about the person who is the subject of the allegation, and about the alleged victim.

Where the police are involved, wherever possible the Principal/Head of HR school will ask the police to obtain consent from the individuals involved to share their statements and evidence for use in any subsequent disciplinary process.

The Principal/Head of HR will adopt a similar procedure with children's social care so that when they make enquiries as to whether the child/children named in the allegation are in need of protection or services, any information obtained in the course of those enquiries and which is relevant to a disciplinary case may be passed to the employer without delay.

The school must make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2011 amended the Education Act 2002, to introduce reporting restrictions.

These provisions made it an offence (with limited exceptions) for any person to publish any material that may lead to the identification of a teacher in a school who has been accused by, or on behalf of, a child from the same school (where that identification would identify the teacher as the subject of the allegation). This applies until:

- the point that the accused person is charged with a relevant offence; or
- the Secretary of State or the General Teaching Council for Wales publishes information about an investigation or decision in a disciplinary case arising from the allegation.

The reporting restrictions will not apply if:

- the individual to whom the restrictions apply waives their right to anonymity by going public themselves; or
- gives their written consent for someone else to do so; or
- if a court lifts the reporting restrictions in response to a request.

“Publication” includes “any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public.”

This means that if a parent published details of the allegation on a social networking site they would be in breach of the reporting restrictions (if what was published could lead to the identification of the teacher). In circumstances where the Trust need to make parents aware about an allegation, the Principal will ensure that parents and others are aware of the legal restrictions on publishing information.

The Principal will take advice from the LADO, police and children’s social care to agree the following:

- who needs to know and exactly what information can be shared;
- how to manage speculation, leaks and gossip;
- what, if any, information can be reasonably given to the wider community to reduce speculation; and,
- how to manage press interest if, and when, it should arise

j. Suspension

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 school to consider suspending the person until the case is resolved. Suspension must not be an automatic response when an allegation is reported. If the school is concerned about the welfare of other children in the community or the person’s family, those concerns should be reported to the Local Authority Designated Officer or the police, but suspension is highly unlikely to be justified on the basis of such concerns alone.

Suspension will only be considered where there is reasonable belief to suspect that:

- a child or other children at the School is or are at risk of significant harm, and/or
- the allegation warrants investigation by the police, and/or
- the allegation is so serious that it may constitute grounds for dismissal and/or
- the school is made aware that the Secretary of State has made an interim prohibition order.

However, a person will not be suspended automatically, or without careful thought being given to the particular circumstances of the case.

Neither the LADO, Children’s Social Care Services, nor the police can require the school to suspend a member of staff or a volunteer, although the school will give appropriate weight to their advice. The power to suspend is vested in the Principal (or the CEO in the event an allegation is made against a Principal). In particular, due consideration has to be given to the potential for professional reputational damage that could result where an allegation is later found to be unfounded, unsubstantiated, malicious, or false and weighing this against the risk of further harm to the child/children or potential for compromising investigations.

The following alternatives may be considered by the schools as alternatives to a suspension: should be considered by the case manager before suspending a member of staff:

- redeployment within the school so that the individual does not have direct contact with the child or children concerned;
- providing an assistant to be present when the individual has contact with children;
- redeploying to alternative work in the school or college so the individual does not have unsupervised access to children;
- moving the child/children to classes where they will not come into contact with the member of staff, (only if it is in the best interest of the child/children concerned and takes accounts of their views and making it clear that this is not a punishment and parents have been consulted; or,
- temporarily redeploying the member of staff to another role in a different location

Where it has been deemed appropriate to suspend the person, written confirmation should be dispatched within one working day, giving the reasons for, and terms of, the suspension. The person should be provided at that point details of a named contact, to whom they may remain in contact and ask questions of within the organisation. They will also be signposted to CareFirst and to their professional association and/or trade union.

The Head of HR will record the rationale and justification for such a course of action including what alternatives to suspension have been considered and why they were rejected.

k. Strategy Meeting

A strategy meeting will be convened within one working day of the referral being made and chaired by the Child Protection and Review Unit. The Local Authority Designated Officer and all relevant personnel including, where appropriate, the Principal and the Trust's Head of HR, should attend this meeting in order to share information and participate in the planning of any enquires. The strategy meeting will be conducted in accordance with Local Safeguarding Children Board procedures.

The purpose is to:

- Consider the risk to the student and other students;
- Share all relevant information about the person who is the subject of the allegation and about the alleged victim;
- Determine the need for investigation and by whom;
- Plan the investigation / enquiries and set timescales for tasks to be undertaken;
- Consider whether any other children are affected by the allegations e.g. the person's own children, grandchildren or other children in the agency setting such as children placed with foster carers, child-minders, a youth club;
- Ensure that the person who is the subject of the allegation is kept informed and supported;
- Decide how regular information and support will be provided to the child and family and by whom;
- Plan all interviews and agree who should undertake them so that there is no confusion between a criminal investigation (Section 47 Enquiry) and disciplinary processes;
- Consider the need to inform relevant parties;
- Jointly consider how to manage any media interest;
- Consider whether the circumstances require the person who is subject to the allegation to be suspended from contact with students. This may change as the investigation progresses and should be reviewed regularly; and/or

- If the allegation is against a governor, a temporary member of staff or a supply teacher, the appropriate course of action needs to be considered.

i. Attendance

Attendance will be determined by the School procedures but will usually include representatives from Children's Services. The member of staff who is the subject of the allegation will not be invited to attend the meeting; however, the strategy meeting will agree when and how the member of staff will be informed. The minutes of the strategy meeting will be circulated by the Chairman of the meeting to relevant parties.

m. Communication following the strategy meeting

The following should be informed of the outcome of the investigation:

- The student making the allegation and their parent/carer of the likely course of action. Also informing them that the matter is confidential and must not be discussed.
- The member of staff against whom the allegation has been made. This should include the likely course of action. A record should be kept on the individual's personal file.
- The Chair of Governors should be informed of the likely course of action.

Subsequent strategy meetings should be held fortnightly, or at a minimum, monthly to review progress.

n. Monitoring Progress

The Local Authority Designated Officer will regularly monitor the progress of cases, either via review strategy meetings, or by liaising with the police and/or Children's Social Worker Services colleagues or the School, as appropriate. Reviews will be conducted at fortnightly or monthly intervals depending on the complexity of the case.

o. Allegation Outcomes

The definitions that will be used when the outcome of an allegation which meets the harm test are set out below:

- **Substantiated:** there is sufficient evidence to prove the allegation;
- **False:** there is sufficient evidence to disprove the allegation;
- **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence; or,
- **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made.
- **Malicious:** there is sufficient evidence to disprove the allegation *and* there has been a deliberate act to deceive or cause harm to the person subject of the allegation;

Ultimately the options open to the school depend on the nature and circumstances of the allegations and the evidence and information available. This will range from taking no further action, to action under the disciplinary policy or some other outcome.

If the allegation is substantiated *and*:

- the person is dismissed; resigns, or otherwise ceases to provide his or her services; or
- the employer ceases to use the person's services.

The employer has a legal duty to make a referral to the DBS for consideration of whether inclusion on the barred lists is required.

In the case of a member of teaching staff at a school, the case manager **must** consider whether to refer the matter to the TRA to consider prohibiting the individual from teaching.

There is a legal requirement for employers to make a referral to the DBS where they consider 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.

Action to be Taken in Respect of False Allegations

If an allegation made by a student is proven to be false and/or malicious, action should be taken to determine whether the person who made the allegation is in need of services or may have been abused by someone else. In the case of a student deliberately inventing or making a malicious allegation, the Principal should consider taking action in accordance with the Behaviour and Discipline Policy. If it is clear to the Principal and Local Authority Designated Officer 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, the employee will be signposted to CareFirst and if requested, additional support maybe offered, which could include occupational health 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 Discipline Policy. The police may also consider taking action against the individual making the allegation.

p. Keeping Records

It is important that a clear and comprehensive record of any allegation is made even if police/disciplinary action is not taken or the case is unsubstantiated. 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.

The record should be kept on the member of staff's personal file. The purpose of this record is to enable accurate information to be given in response to any future reference request if the individual leaves the School. 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. This information given to the DBS is referred due to the nature of the allegation. 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.

q. Resignations and 'Settlement Agreements'

If the accused person resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with this guidance. A referral to the DBS must be made if the criteria are met. Schools must also consider whether a referral to the TRA is appropriate

If the accused person resigns or their services cease to be used and the criteria are met, it may not be appropriate to reach a settlement agreement. Any settlement agreement that would prevent

the Trust from making a DBS referral is likely to result in a criminal offence being committed.

We will make effort to reach a conclusion in cases of allegations that have bearing on the safety or welfare of children, including where the person concerned refuses to cooperate with the process.

Wherever possible, the accused will 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, will continue even if that cannot be done or the accused does not cooperate. It may be difficult to reach a conclusion in those circumstances, and it may not be possible to apply a disciplinary sanction if a person's period of notice expires before the process is complete, but we will endeavour to reach and record a conclusion wherever possible.

Settlement agreements' (sometimes referred to as compromise agreements), by which a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, should not be used in cases of refusal to cooperate or resignation before the person's notice period expires. Such an agreement will not prevent a thorough police investigation where that is appropriate.

18 On conclusion of a case

There is a legal requirement for employers 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 (see above)

Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the Principal will consider how best to facilitate that. Some people may benefit from some help and support to return to work after for example, a phased return or the provision of a mentor might be appropriate. The Principal will also consider how the person's contact with the child or children who made the allegation can best be managed if they remain at the school.

19 References

Cases in which an allegation was found to be false, unfounded, unsubstantiated or malicious will not be included in employer references. Any repeated concerns or allegations which have all been found to be false, unfounded, unsubstantiated or malicious should also not be included in any reference. Substantiated allegations will be included in references and the information provided will be factually correct and will not include opinions.

20 Learning Lessons

Where an allegation has been made against a member of staff, lessons can be learned whether the allegations are proven or not. At the conclusion of a case, relevant parties should discuss what can be learned and therefore lead to improved practice, either to the School procedures or to help prevent similar events in the future. The Local Authority Designated Officer and the Principal should review the case.

SECTION TWO: CONCERNS THAT DO NOT MEET THE HARMS TEST (“low level” concerns)

As part of our whole school approach to safeguarding, schools with Emmanuel Schools Foundation seek to ensure an open and transparent culture is promoted in which any and all concerns about all adults working in or on behalf of the school (including supply teachers, volunteers and contractors) may be dealt with promptly and appropriately.

We encourage all staff to share any concern, no matter how trivial or insubstantial it may seem, about adults (including allegations that do not meet the harms threshold) are reported responsibly to the right person so that we can make a record and deal with the circumstances appropriately.

We see this as critical to identifying concerning, problematic or inappropriate behaviour early; and thus, minimise the risk of abuse; so that that adults working in or on behalf of our schools have clear professional boundaries and act within these boundaries, and in accordance with our ethos and virtues framework.

21. What is a low-level concern?

The term ‘low-level’ concern does not mean that it is insignificant, it only means that the behaviour observed does not meet the “harms threshold” set out earlier in this guidance.

A low-level concern is any concern – no matter how small, and even if no more than causing a sense of unease or a ‘nagging doubt’ - that an adult working in or on behalf of the school or college may have acted in a way that:

- is inconsistent with the staff code of conduct, including inappropriate conduct outside of work;
- does not meet the allegations threshold or
- is not considered serious enough to consider a referral to the LADO.

Examples of such behaviour could include, but are not limited to:

- being over friendly with children;
- having favourites;
- taking photographs of children on their mobile phone;
- engaging with a child on a one-to-one basis in a secluded area or behind a closed door; or
- using inappropriate sexualised, intimidating or offensive language

Such behaviour exist on a wide spectrum, from the inadvertent or thoughtless, to behaviour that may look to be inappropriate, but might not be in specific circumstances, through to that which is ultimately intended to enable abuse.

Individuals identifying any such concerns, including those which do not meet the harm threshold should ensure their concerns are shared responsibly, with the right person, in accordance with the individual schools’ Safeguarding Policies and Procedures.

In this way, we can make sure that those working in our schools are protected from potential false allegations or misunderstandings.

22 Link to Staff Code of conduct and School Safeguarding policies

Emmanuel Schools Foundation has a clearly established staff code of conduct, disciplinary policy and other employment policies set out in the Employment Handbook which set out the accepted standards of conduct and performance. Our schools’ safeguarding policies and regular refresher training make it

clear what a low-level concern is; the importance of sharing low-level concerns; and enables staff to distinguish between appropriate behaviour and concerning, problematic or inappropriate behaviour, in themselves and others.

All low-level concerns are recorded in writing, and include details of the concern, the context in which the concern arose, and action taken. The name of the individual sharing their concerns should also be noted, if the individual wishes to remain anonymous then that should be respected as far as reasonably possible. Records are kept confidential, held securely, and comply with the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR). Records of low-level concerns, which do not result in disciplinary action for misconduct or poor performance and do not meet the threshold for LADO referral will only be retained until an employee leaves our employee.

Records are regularly reviewed so that potential patterns of concerning, problematic or inappropriate behaviour are identified. Where a pattern of such behaviour is identified, the school will decide on an appropriate course of action, either through its disciplinary procedures or where a pattern of behaviour moves from a concern to meeting the harms threshold, in which case it will be referred to the LADO as detailed in Section One of this Statement.

23 Supporting those Involved

Supporting the Employee

The Trust has a duty of care to their employees and we will take reasonably practicable steps to mitigate the stress inherent in the allegations and disciplinary process. This will include:

- advising employees of concerns or allegations as soon as possible and providing an explanation of the likely course of action (unless there is an objection by the local authority social care services or the police)
- Signposting to their trade union representative
- Providing contact details of a named colleague for support, and maintaining open lines of communication
- Signposting to welfare counselling or medical advice via CareFirst
- Social contact with colleagues will not be unreasonably prevented unless such contact may be prejudicial to the gathering and presentation of evidence.

Supporting Parents

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. However, where a strategy discussion is required, or police or local authority children's social care services need to be involved, the Principal should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents. They 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. The ESF Data Protection Policy should also be referred to.

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.

24 References & Low-Level Concerns

Details of low-level concerns will not be included in employment references unless they relate to issues usually included; for example disciplinary circumstances relating to misconduct or poor performance. A low-level concern which relates exclusively to safeguarding (and not to misconduct or poor performance) will not be referred to in an employment reference. However, where a low-level concern (or group of concerns) has met the threshold for referral to the LADO (risk of harm) and found to be substantiated, it will be detailed in a reference

25 Policy Review

This policy will be kept under review in order to keep it in line with relevant legislation and modifications authorised in line with the authorisation and issue process detailed below.

This Policy should also be read in conjunction with the Trust's disciplinary procedures.

Appendix 1 - Definitions

Significant Harm

This is the threshold where compulsory Social Care intervention must take place. This was introduced by the Children Act 1989 and is defined by the Law Commission as: *“Harm as a concept should be taken to include not only ill-treatment (including sexual abuse and forms of ill treatment that are not physical) but also the impairment of physical or mental health and the impairment of physical, emotional, social or behaviour development”*.

Abuse

Abuse can consist of physical, sexual, neglect and emotional. The definitions of abuse are below.

Types of abuse:

1. **Physical abuse** includes hitting, slapping, pushing, kicking, misuse of medication, restraint or inappropriate sanctions.
2. **Sexual abuse** includes rape, sexual activities to which a child has not/could not consent or was pressurised into consenting. Sexual activities could include physical contact or non-physical contact. Non-physical contact could be encouraging children/young people to watch sexual activities or behave in a sexually inappropriate way.
3. **Neglect** is the persistent failure to meet a child/young person’s basic physical or psychological needs, likely to result in the serious impairment of the child/young person’s health or development. It includes a failure to provide access to appropriate health, social care or educational services or withholding the necessities of life such as medication, adequate nutrition, clothing, shelter and heating.
4. **Emotional abuse** is the persistent emotional maltreatment of a child/young person. This could have a severe and adverse effect on a child’s/young person’s development. This may involve conveying to the child/young person that they are worthless, or unloved, inadequate or valued only in so far as they meet the needs of another person. It also includes humiliation, blaming, controlling, intimidation, isolation or withdrawal from services or supportive networks. Some level of emotional abuse is involved in all types of maltreatment of a child/young person, although it may occur alone.

Position of Trust

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

Appendix 2 - Information Guide for Employees Facing Allegations

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

- harmed a student or put a child at risk of harm, or
- committed a criminal act toward a student or child, or
- behaved in a way that raises concern about your suitability to work with children or young people

1. Initial Action

As soon as possible after the allegation is made, the Principal should consult the Local Authority Designated Officer to discuss the next action, taking advice from Social Care and the police as needed. The police may advise that you are not told about the allegation immediately.

The Principal's decision in consultation with the Local Authority Designated Officer will be one, or a combination, of the following:

- a) The student is alleged to have suffered or is likely to suffer significant harm which requires immediate referral to Social Care.
- b) A criminal offence is alleged which requires referral to Social Care and the police.
- c) The allegation represents poor or inappropriate behaviour which should be considered under the School disciplinary and/or capability procedures, including referral if appropriate to the School occupational health advisor.
- d) The allegation is clearly and demonstrably without foundation and no further action will be taken.

If the conclusion of the initial discussions are a) or b) a strategy discussion should take place involving the police, Social Care, the Principal, the Local Authority Designated Officer and the Emmanuel Schools Foundations Head of HR. You will not be invited. The discussion will focus on the needs of the student(s) who may be at risk. It will determine what action should be taken regarding further investigation, but it is not part of any disciplinary procedures.

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

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

2. Types of Possible Investigation

- Child protection enquiries by Social Care
- Criminal investigation by the police
- Disciplinary/capability investigation

A disciplinary investigation will usually be held in abeyance until external agency investigations are complete, unless prior agreement is reached. Whilst these investigations should be conducted as speedily as possible, they should also be balanced against the need to be thorough and fair, in line with natural justice. Statements taken in external investigations could be used in subsequent disciplinary proceedings.

3. Suspension

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

- a student may be at risk
- the allegations are so serious that dismissal for gross misconduct is possible
- suspension is deemed advisable to ensure that the investigation can proceed unimpeded

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

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

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

Other people, including other staff, should only be told about the allegation on a 'need to know basis'. Notification may be delayed if the police think this could prejudice an investigation.

Those who will be told of the allegation and likely course of action include you, the student concerned, his/her parent/carer, the person making the allegation, your manager, the Principal, the Emmanuel Schools Foundation Head of HR, the Local Authority Designated Officer and the investigating agencies as above.

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

4. Support

You should expect to be:

- advised to contact your union representative;
- given a support contact within the organisation who should keep you up to date with progress of your case;
- given a team contact, if you are suspended, who will update you about normal organisation activities. Social contact with colleagues will not normally be precluded unless, in the reasonable opinion of the Principal it is considered detrimental to the investigation. The type of information and frequency of contact should be agreed, but you may not comment on or discuss the investigation with colleagues; and/or
- Sign posted to CareFirst.

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