

# Leamington Vineyard Learning Centre

## Managing Allegations Policy

### **Introduction**

At LVLC we believe that all children and young people have a right to learn in a safe environment. Children should be free from harm by adults in LVLC and other students.

LVLC's leadership recognises its collective responsibility to safeguard and protect the welfare of children and young people in accordance with its statutory responsibility under Section 175 of the Education Act 2002 and where appropriate under the Children Acts.

### **Managing allegations against staff and/or volunteers**

LVLC will manage all allegations against staff and/or volunteers in accordance with the agreed WES and WSCB Procedures and has a nominated 'Designated Person' who will liaise with the Local Authority Designated Officer (LADO) on all matters of concern which meet any of the following criteria:

It appears that the person has:

- Behaved in a way that has harmed a child, or may have harmed a child, or,
- Possibility committed a criminal offence against or related to a child, or,
- Behaved towards a child in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children.

This procedure is about the management of allegations that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children and/or young people in their present position, or in any capacity. It should be used in respect of all cases in which it is alleged that an individual who works with children (including volunteers) has:

- behaved in a way that has harmed a child, or may have harmed a child; or,
- possibility committed a criminal offence against or related to a child; or,
- behaved towards a child in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children.

In addition, these procedures will be used:

- if there are concerns about the person's behaviour towards their own children, or children unrelated to their employment or voluntary work, and there has been a recommendation from a strategy discussion that consideration should be given to the risk posed to children they work with; or,
- when an allegation is made about abuse that took place some time ago and the accused person may still be working or having contact with children.

### **Timescale**

It is imperative that allegations against staff are dealt with as efficiently as possible to:

- minimise the risk to the child;
- minimise the impact on the child's academic progress ensure a fair and thorough investigation for all parties.

To enable this to happen, all staff, parents, and students should be aware of the procedures set out in this policy.

### **Initial action by person receiving or identifying an allegation or concern**

The person to whom an allegation or concern is first reported should treat the matter seriously and keep an open mind. They should not:

- investigate or ask leading questions if seeking clarification;
- make assumptions or offer alternative explanations;

- promise confidentiality, but they can give assurance that the information will only be shared on a 'need to know basis'.

They should:

- remember that the welfare of children and young people is paramount, and of greater importance than a colleague's career;
- make a written record of the information (where possible in the child's own words), including the time, date and place of incident/s, persons present and what was said; and
- sign and date the written record and immediately report the matter to the DSL.

In the event of a concern or allegation against a staff member, the member of staff receiving the concern or allegation will immediately inform the DSL. If the DSL is absent the concern or allegation will be communicated to the LVLC leadership via the LVC Safeguarding Coordinator or Deputy. The person reporting the concern or allegation must not inform the person about whom the concern or allegation has been raised.

If the concern or allegation made to a member of staff concerns the Principal staff must immediately inform the LVLC leadership, who must consult with the local authority designated officer (LADO) within 24 hours. The person reporting the concern or allegation must not inform the Principal.

### **Initial action by the DSL/leadership**

All concerns or allegations against members of staff will be actioned by the DSL or, in the DSL's absence, the LVLC leadership. Any suggestions of any concern or allegation will be discussed with the local authority designated officer (LADO), within 24 hours.

The procedures for dealing with allegations need to be applied with common sense and judgment. When informed of a concern or allegation, the designated manager should not initially investigate the matter or interview the member of staff, child concerned or potential witnesses. They should:

- obtain written details of the concern/allegation, signed and dated by the person receiving (not the child/adult making the allegation);
- record any information about times, dates and location of incident/s and names of any potential witnesses; and
- record discussions about the child and/or member of staff, any decisions made, and the reasons for those decisions

The Local Authority Designated Officer (LADO) should be informed within one working day when allegations appear to meet the criteria listed. Referrals should not be delayed in order to gather information.

The purpose of an initial discussion is for the LADO and to consider the nature, content and context of the allegation and agree a course of action. It also alerts the LADO about cases that may also reach them via another route for example if the parent goes straight to the police or social care - allowing the LADO to have as full a picture as possible. To gain an overview the LADO may also want to know details of any previous complaints, any adult witnesses, any child witnesses, and noted injuries, any tensions between staff and parents and a clear idea of the time and location of when issues may have occurred.

Following this initial discussion, a decision will take place to decide whether:

- no further actions are needed;
- a strategy discussion should take place; or
- there should be immediate involvement of the police or social care.

In the case that no further action is needed, this decision and a justification for it should be recorded by LVLC and the LADO, and agreement reached as to what information should be put in writing to the individual concerned and by whom. LVLC and the LADO should also consider what other

action should follow in respect of the individual and those who made the initial allegation. See 'In respect of malicious or unsubstantiated allegations' below.

If the allegation is not false and there is cause to suspect that a child is suffering or is likely to suffer significant harm, the LADO will immediately refer to children's social care and ask for a strategy discussion to be convened in accordance with the Working Together to Safeguard Children 2013.

Where concerns or allegations indicate that there is a possibility of serious harm the Police must be informed from the outset.

### **Investigation**

An investigation into the allegations is normally carried out by children's social services or by the school. This will be agreed at the initial evaluation stage. Where LVLC is not conducting the investigation it will cooperate with investigative agencies. Internal investigations must be second to any safeguarding investigation and may need to be delayed until the external investigation is complete.

LVLC will fully support and cooperate with any external investigation.

### **Supporting those involved**

The DSL/Principal should inform the accused person about the allegation as soon as possible after consulting the LADO. The DSL/Principal should provide the employee with as much information as possible at the time. However, where a strategy discussion is needed, or police or local authority's social care services need to be involved, the DSL/Principal should not do inform the accused employee until those agencies have been consulted, and have agreed what information can be disclosed to the person.

Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations and disciplinary process. Support for the individual is key to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by the local authority social care services or the police. When appropriate they should also be given access to welfare counselling or medical advice.

Particular care needs to be taken when employees are suspended to ensure that they are kept informed of both the progress of their case and current work related issues. Social contact with colleagues and friends must not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

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 DSL should consult those agencies and agree 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. Parents and carers should also be made aware of the prohibition on reporting or publishing allegations about teachers in section 141F of the Education Act 2002.

### **Suspension**

Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at LVLC until the allegation or concern is resolved. An individual should only be suspended if there is no reasonable alternative. Suspension should be considered only in a case where there is cause to suspect a child or other children at LVLC are at risk of harm or the case so serious that it might be grounds for dismissal. Suspension should not

be the default option but if used the reasons and justification should be recorded and the individual notified of the reasons.

Based on assessment risk the following alternatives should be considered before suspending a member of staff:

- redeployment within LVLC 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;
- redeployment to alternative work in LVLC so the individual does not have unsupervised access to children;
- moving the student(s) to classes where they will not come into contact with the member of staff, making it clear that this is not a punishment and parents have been consulted.

### **Confidentiality**

LVLC will make every effort to guard the privacy of all parties during and after an investigation into an allegation. It is in everyone's best interest to maintain this confidentiality to ensure a fair investigation with minimum impact for all parties. A breach of confidentiality will be taken seriously and may warrant its own investigation. LVLC will make every effort to guard against unwanted publicity while an allegation is being investigated or considered.

LVLC should take advice from the LADO, police and local authority social care services to agree the following:

- who needs to know and, importantly, 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;
- how to manage press interest if and when it should arise.

From 1st October 2012 the Education Act 2011 introduced reporting restrictions preventing the publication of any material that may lead to the identification of a teacher who has been accused by, or on behalf of, a pupil from the same school. Basically the reporting restrictions apply until the point that the accused person is charged with an offence.

### **Resignations and Settlement Agreements**

If an employee hands in their resignation when an allegation is made against them, or during the course of an investigation, the investigation will still continue in accordance with these procedures until an outcome has been reached, with or without the employee's cooperation.

By the same token settlement agreements, by which a person agrees to resign if LVLC agrees not to pursue disciplinary action, must not be used in these cases. A referral to the DBS must be made if the criteria are met (Action on Conclusion of a Case).

### **Record Keeping**

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

However, for all other allegations, it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on a person's confidential personnel file. A copy of all information recorded will be provided to the person concerned.

The purpose of the record is to:

- enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS Disclosures reveal information from the police about an allegation that did not result in a criminal conviction;
- help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.

The record should be retained at least until the person has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

### **References**

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

### **Information sharing**

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

Where the police are involved, wherever possible the employer should ask the police to obtain consent from the individuals involved to share their statements and evidence for use in the employer disciplinary process. This should be done as their investigation proceeds and will enable the police to share relevant information without delay at the conclusion of their investigation or any court case.

Children's social care services should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are in need or protection or services, so that any information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to the employer without delay.

### **Action following a criminal investigation or a prosecution**

The police or the Crown Prosecution Service (CPS) should inform LVLC and LADO straight away when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to continue to prosecute the case after person has been charged. In those circumstances the LADO should discuss with the DSL/Principal and leadership whether any further action, including disciplinary action, is appropriate and, if so, how to proceed.

### **Action on conclusion of a case**

If the allegation is substantiated and the person is dismissed or LVLC ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the LADO should discuss with LVLC whether a referral to the Disclosure and Barring Service (DBS) for consideration of inclusion on the barred lists and/or (for teachers) to the Department of Education.

There is also a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child or if a person otherwise poses a risk of harm to a child. In such circumstances, the duty to refer an individual to the DBS arises where an employer has removed the individual from relevant work with children or the person has chosen to cease relevant work in circumstances where they would have been removed had they not done so. Professional misconduct cases should be referred to the relevant regulatory body. The DBS will consider whether to bar the person from working in regulated activity, which will include work in LVLC and other educational establishments. Local authorities and schools and other bodies all have a statutory duty to make reports, and to provide relevant information to the DBS. Referrals should be made as soon as possible after the resignation or removal of the member of staff involved and within one month of ceasing to use the person's services.

If it is decided that the employee may return to school (after a suspension) then provisions will be put in place by the school to ensure that the transition is as smooth as possible. This may involve a phased return for a trial period or the use of another member of staff as a support system in the short term. If the child who made the allegation is still at the school, the school will consider what needs to be done to manage the contact between employee and child.

No matter what the outcome is of an allegation of abuse against staff, LVLC will review the case to see if there are any improvements that can be made in its practice or policy that may help to prevent similar cases in the future.

### **In respect of malicious or unsubstantiated allegations**

If an allegation is determined to be unsubstantiated or malicious, the matter should be referred to social services to determine whether the child concerned is in need of services, or may have been abused by someone else.

If an allegation is shown to be deliberately invented or malicious, the Principal should consider whether any action is appropriate against the student who made it; or whether the police should be asked to consider if action might be appropriate against the person responsible, even if he or she was not a student.

### **Managing allegations against students**

Occasionally allegations may be made against students by others in LVLC which are of a safeguarding nature. Safeguarding issues raised in this way may include physical abuse, emotional abuse, sexual abuse and sexual exploitation. It is likely that to be considered a safeguarding allegation against a pupil, some of the following features will be found.

The allegation:

- is made against an older pupil and refers to their behaviour towards a younger pupil or a more vulnerable pupil;
- is of a serious nature, possibly including a criminal offence
- raises risk factors for other pupils in LVLC;
- indicates that other pupils may have been affected by this student;
- indicates that young people outside LVLC may be affected by this student.

### **Minimising the risk**

On occasion, some students will present a safeguarding risk to other students. LVLC should be informed that the young person raises safeguarding concerns, for example, they are coming back into LVLC following a period in custody or they have experienced serious abuse themselves.

These students will need an individual risk management plan to ensure that other pupils are kept safe and they themselves are not laid open to malicious allegations. There is a need to balance the tension between privacy and safeguarding.

### **Action following an allegation**

When an allegation is made by a pupil against another student, members of staff should consider whether the complaint raises a safeguarding concern. If there is a safeguarding concern the Designated Safeguarding Lead (DSL) should be informed.

A factual record should be made of the allegation, but no attempt at this stage should be made to investigate the circumstances.

The DSL should contact social services to discuss the case. It is possible that social services are already aware of safeguarding concerns around this young person. The DSL will follow through the outcomes of the discussion and make a social services referral where appropriate.

The DSL will make a record of the concern, the discussion and any outcome and keep a copy in the files of both pupils' files.

If the allegation indicates a potential criminal offence has taken place, the police should be contacted at the earliest opportunity and parents informed (of both the student being complained about and the alleged victim).

It may be appropriate to exclude the pupil being complained about for a period of time.

Where neither social services nor the police accept the complaint, a thorough internal investigation should take place into the matter.

In situations where LVLC considers a safeguarding risk is present, a risk assessment should be prepared along with a preventative, supervision plan. The plan should be monitored and a date set for a follow-up evaluation with everyone concerned.

### **Safeguarding Contacts**

#### **LVLC Designated Safeguarding Lead (DSL) - Brian Nash**

Tel: 07530 997852

#### **LVC Safeguarding Coordinator - Lindsay Nash**

Tel: 01926 730720

#### **LVC Deputy Safeguarding Coordinator - Lorna Pollard**

Tel: 01926 743200, ext. 226y

#### **Local Social Services**

Tel: 01926 410410 (office hours)

Tel: 01926 886922 (out of hours emergencies)

#### **MASH (Multi-Agency Safeguarding Hub) - from 3rd May 2016**

Early Help Advice Line:

Tel: 01926 414144, from 8.30am-5.30pm Mon-Thursday, and 8.30am-5pm on Fridays

Out of Hours No.: 01926 886992

Website: [www.warwickshireMASH.org.uk](http://www.warwickshireMASH.org.uk)

Email (for referrals): [mash@warwickshire.gcsx.gov.uk](mailto:mash@warwickshire.gcsx.gov.uk)

#### **Police**

Tel: 999

#### **Reference Documents**

- Keeping Children Safe in Education (DfE 2015)
- Working Together to Safeguard Children (DfE 2015)
- WSCB Inter-agency Safeguarding Procedures  
<http://www.warwickshire.gov.uk/wscbresources>
- Child Protection Record Keeping Guidance (WCC Education Safeguarding Service)