



## Managing Allegations Policy

<b>Purpose of Policy/Document</b>	<p>Following statutory guidance from the Department for Education, this policy outlines the procedure for handling allegations against staff.</p> <p>The policy also outlines the support available for staff where allegations are made against them.</p> <p>This policy relates to all adults working with children and young people in college whether in a paid or voluntary position including those who work with learners on a temporary, supply or locum basis.</p> <p>This policy seeks to safeguard all learners in the college, with particular emphasis on young people and vulnerable adults</p>
<b>Target Audience (staff/students/visitors/contractors)</b>	Staff (inc Contractors, Agency and Volunteers )
<b>Particular Legal Requirements/Issues outside of EDD</b>	<p>This policy provides information and procedures relating to the management of allegations, with particular regard to safeguarding issues. Explanation of the role of the Designated Senior Lead for Safeguarding (Vice Principal – Student Experience and Stakeholder Engagement), the Principal and the Chair of the Corporation are provided.</p> <p>This policy reflects statutory guidance from the Department for Education and is related to the following legislation and guidance:</p> <ul style="list-style-type: none"> <li>• The Children Act 1989/2004</li> <li>• Section 175 of the Education Act 2002 (local authorities, governing bodies of maintained schools and institutions in the further education sector)</li> <li>• Section 11 of the Children Act 2004 (other agencies)</li> <li>• Sections 141F, 141G and 141H3 of the Education Act 2002</li> <li>• Keeping Children Safe in Education 2022 (part 4).</li> <li>• Sexual Offences Act 2003</li> <li>• Safeguarding Vulnerable Groups Act 2006</li> <li>• Working Together to Safeguard Children 2018</li> <li>• The Children and Families Act 2014</li> <li>• Safeguarding Children and Safer Recruitment in Education – DfE 2016</li> <li>• The employment practices code and supplementary guidance (ICO)</li> <li>• DBS barring referral guidance</li> </ul>
<b>Links with Other Policies/Documents</b>	Safeguarding Policy, Staff Disciplinary, Staff Code of Conduct, Search & Restraint Policy, Recruitment & Selection Policy
<b>For completion by The Executive</b>	
<b>Policy/Document</b>	SAF01

<b>Reference No.</b>	
<b>Category</b>	Safeguarding
<b>Owner (job title)</b>	Vice Principal Student Experience & Stakeholder Engagement
<b>Issue Date</b>	1 October 2022
<b>Review Date</b>	1 October 2025
<b>Postholder Responsible for Review (job title)</b>	Vice Principal Student Experience & Stakeholder Engagement
<b>Authorised By: (SLT/Corporation)</b>	Corporation
<b>Communicated via/Location: (Policy Acceptance software/website/portal etc)</b>	Portal Website
<b>Equality Impact Assessment Statement</b>	The Equality Act 2010 does not require public authorities to carry out EIAs by law. The College does however, carefully consider the impact, when creating or amending its policies, on all concerned parties regarding Equality, Diversity and Inclusion and records this at SLT meetings in order to demonstrate compliance with Public Sector Equality Duty (PSED).

## **1. CONTEXT**

As part of the whole college approach to safeguarding, colleges should ensure that they promote an open and transparent culture in which all concerns about all adults working in or on behalf of the school or college (including agency staff, volunteers and contractors) are dealt with promptly and appropriately.

Creating a culture in which all concerns about adults are shared responsibly and with the right person, recorded and dealt with appropriately, is critical. If implemented correctly, this should:

- enable colleges to identify inappropriate, problematic or concerning behaviour early
- minimise the risk of abuse, and
- ensure that adults working in or on behalf of the college are clear about professional boundaries and act within these boundaries, and in accordance with the ethos and values of HoW College .

## **2. PROFESSIONAL CONDUCT**

The College has a Professional Code of Conduct for staff which must be adhered to. Guidelines regarding use of personal mobile telephones, social networking sites and the transport of learners in personal vehicles are available from the HR department and on the college portal. Staff must not travel with a student in their own vehicle unless there are exceptional circumstances, and no alternative is available. Staff should only make contact with students for professional reasons, using college equipment and software/sites.

## **3. ABUSE OF POSITION OF TRUST**

All adults working with children, young people and vulnerable adults are in a position of trust in relation to those in their care. Members of college staff should be aware that the Sexual Offences Act 2003 makes it an offence for a person over the age of 18, who is in a position of trust, to have a sexual relationship with a young person under the age of 18, even if the relationship is consensual.

## **4. SEARCH AND RESTRAINT**

The College is responsible for the health, safety and welfare of all staff and students and will not tolerate the actions of individuals who present a danger or discomfort to others. The Search and Restraint Policy is designed to protect both the health and safety of the whole College community and applies to all staff (including agency staff), students, volunteers and contractors and College visitors. To mitigate allegations of inappropriate behaviour, staff, including agency staff, contractors and volunteers should adhere to the guidance detailed in this policy.

## 5. WHAT IS AN ALLEGATION?

This guidance is about managing cases of allegations that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with young people or vulnerable adults in their present position, or in any capacity. It should be used in respect of all cases in which it is alleged that a member of staff (including agency staff, contractors, volunteers and other adults, whether paid or working in a voluntary capacity on or off college premises and sites) has:

- behaved in a way that has harmed a learner or may have harmed a learner.
- possibly committed a criminal offence against or related to a learner;
- behaved towards a learner in a way that indicates he or she would pose a risk of harm to a learner, or
- behaved or may have behaved in a way that indicates they may not be suitable to work with young people or vulnerable adults (includes behaviour that may have happened outside of school or college, that might make an individual unsuitable to work with children, this is known as transferable risk)

## 6. INITIAL CONSIDERATIONS

It is essential that any allegation of abuse made against a member of staff (including agency staff) contractor, or volunteer is dealt with very quickly, in a fair and consistent way that provides effective protection for the learner and at the same time supports the person who is the subject of the allegation. In the case of an allegation against an agency or contractor the DSL will review and decide on the appropriate policy to follow.

The procedures for dealing with allegations need to be applied with common sense and judgement. Many cases may well either not meet the criteria set out above or may do so without warranting consideration of either a police investigation or enquiries by local authority children's social care services. In these cases, local arrangements should be followed to resolve cases without delay.

The College has a duty of care to its employees and will ensure that effective support is provided for anyone facing an allegation and will provide the employee with a named contact if they are suspended.

There are the two levels of concerns and allegations:

### 1. Concerns / allegations that may meet the harm threshold

This will be so serious that it might indicate a person would pose a risk of harm if they continue to work in their present position, or in any capacity with young people or vulnerable adults in the college. This may require immediate intervention by children's social care services and/or police. The Local Authority Designated Officer (LADO) will be informed of all allegations that come to our attention and appear to meet the criteria so they can consult police and children's social care services as appropriate.

There are two aspects to consider when an allegation is made:

- Looking after the welfare of the young person - the designated safeguarding lead (or a deputy) is responsible for ensuring that the learner is not at risk and referring cases of suspected abuse to the local authority children's social care.
- Investigating and supporting the person subject to the allegation - the case manager should discuss with the LADO, the nature, content and context of the allegation, and agree a course of action.

## 2. Concerns / allegations that do not meet the harm threshold, these are referred to as 'low-level concerns'

The term 'low-level' concern does not mean that it is insignificant. 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 College may have acted in a way that:

- is inconsistent with the staff Professional code of conduct, including inappropriate conduct outside of work and
- does not meet the harm threshold or is otherwise not serious enough to consider a referral to the LADO.

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

- being over friendly with young people
- having favourites
- taking photographs of young people on their mobile phone, contrary to college policy
- humiliating the young person.

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

Low-level concerns may arise in several ways and from a number of sources. For example: suspicion; complaint; or disclosure made by a young person, parent or other adult within or outside of the organisation; or as a result of vetting checks undertaken.

It is crucial that all low-level concerns are shared responsibly with the right person and recorded and dealt with appropriately. Ensuring they are dealt with effectively should also protect those working in or on behalf colleges from becoming the subject of potential false low-level concerns or misunderstandings.

Low-level concerns which are shared about agency staff and contractors should be notified to their employers, so that any potential patterns of inappropriate behaviour can be identified.

If schools and colleges are in any doubt as to whether the information which has been shared about a member of staff as a low-level concern in fact meets the harm threshold, they should consult with their LADO.

## 7. PROCEDURES ON RECEIPT OF AN ALLEGATION

**All allegations should be reported immediately**, to the Designated Senior Lead (Vice Principal – Student Experience and Stakeholder Engagement) and the Principal/Deputy CEO or to the Chair of Governors in the absence of the DSL or Principal/Deputy CEO. The Chair of Governors is also the point of referral where the Principal is the subject of the allegation or concern. They will then assume the role as the 'Case Manager'.

In response to an allegation all other options should be considered before suspending a member of staff; suspension should not be the default option. An individual should be suspended only if there is no reasonable alternative. If suspension is deemed appropriate, the reasons and justification should be recorded by HR and the individual notified of the reasons.

Learners that are found to have made malicious allegations are likely to have breached college student standards. The college should therefore consider

whether to apply an appropriate sanction, which could include temporary or permanent exclusion (as well as referral to the police if there are grounds for believing a criminal offence may have been committed).

The following definitions will be used when determining the outcome of allegation investigations:

1. **Substantiated:** there is sufficient identifiable evidence to prove the allegation;
2. **False:** there is sufficient evidence to disprove the allegation;
3. **Malicious:** there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false;
4. **Unfounded:** there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively, they may not have been aware of all the circumstances;
5. **Unsubstantiated:** this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

## 8. PROCEDURE FOLLOWING AN ALLEGATION

**STEP 1:** When an allegation is reported to a member of staff, that member of staff should:

- Take it seriously
- Clarify details – when, where, how, who
- Record, sign and date
- Report immediately to the Designated Senior Lead for Safeguarding, the Principal/Deputy CEO or the Chair of Governors (if allegation is regarding the Principal) who will assume the role of ‘Case manager’.

**STEP 2:** The Case Manager will:

- Establish whether the allegation could have possibly occurred (was the individual in the school or college at the time of the allegations and did the individual, or could the individual have come into contact with the child)
- Establish if the allegation is classed as a ‘low level’ concern or not.
- Collect any written statements
- Check if CCTV footage is available
- Establish whether there were any witnesses
- Consult with the Local Authority Designated Officer or the Senior Adviser for Safeguarding Children in Education if required.

THE CASE MANAGER WILL NOT INVESTIGATE FURTHER OR INTERVIEW ANYONE AT THIS STAGE

**STEP 3:** The Case Manager will decide:

- Whether or not the threshold for a Child Protection investigation has been met
- When and how to inform the learner’s parents if appropriate
- Whether or not to tell the member of staff
- Whether or not to suspend the member of staff

- Any necessary safeguards to implement i.e., provide effective protection for the child and support the person subject to the allegation

Where the threshold has been met, the Senior Designated Lead for Safeguarding, Principal/Deputy CEO or Chair of Governors (hereby known as Case Manager) will immediately discuss the allegation with the LADO. The purpose of an initial discussion is for the LADO and the Case Manager to consider the nature, content and context of the allegation and agree a course of action. The LADO may ask the Case Manager to provide or obtain relevant additional information, such as previous history, whether the learner or their family have made similar allegations and the individual's current contact with learners.

There may be situations when the Case Manager will want to involve the police immediately, for example if the person is deemed to be an immediate risk to learners, young people or vulnerable adults or there is evidence of a criminal offence. Where there is no such evidence, the Case Manager will discuss the allegations with the LADO in order to help determine whether police involvement is necessary.

The initial sharing of information and evaluation may lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern; in which case this decision and a justification for it will be recorded by both the Case Manager and the LADO, and agreement reached on what information should be put in writing to the individual concerned and by whom. The Case Manager will then consider with the LADO what action should follow both in respect of the individual and those who made the initial allegation.

The Case Manager through HR will inform the accused person about the allegation as soon as possible after consulting the LADO. The Case Manager will provide the individual with as much information as possible at that time. However, where a strategy discussion is needed, or police or children's social care services need to be involved, the Case Manager will not do so until those agencies have been consulted and have agreed what information can be disclosed to the accused.

The College will consider carefully whether the circumstances of a case warrant a staff member being suspended from contact with learners or whether alternative arrangements can be put in place until the allegation or concern is resolved. All options to avoid suspension will be considered prior to taking this step. (Please see further information on suspension below).

If the allegation is not demonstrably false or unfounded, and there is cause to suspect a learner is suffering or is likely to suffer significant harm, a strategy discussion will be convened in accordance with *Working Together to Safeguard Children*. If the allegation is about physical contact, the strategy discussion or initial evaluation with the police will take into account that college staff are entitled to use reasonable force to control or restrain pupils in certain circumstances, within the Search and Restraint policy guidelines.

Where it is clear that an investigation by the police or children's social care services is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the LADO will discuss the next steps with the Case Manager. In these circumstances, the options open to the College depend on the nature and circumstances of the allegation and the evidence and information available. This will range from taking no further action to dismissal or a decision not to use the person's services in future. Suspension should not be the default position: an individual will be suspended only if there is no reasonable alternative.

In some cases, further enquiries will be needed to enable a decision about how to proceed. If so, the LADO will discuss with the Case Manager how and by whom the investigation will be undertaken. In straightforward cases, the investigation will normally be undertaken by the Senior Designated Lead for Safeguarding. However, other circumstances, such as lack of appropriate resource within the college, or the nature or complexity of the allegation will

require an independent local authority investigator.

## **9. SUPPORTING THOSE INVOLVED**

The college has a duty of care to its staff and will therefore act to manage and minimise the stress inherent in the allegations process. Support for the individual is key to fulfilling this duty. Individuals will 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 children's social care services or the police. The individual will be advised to contact their trade union representative, if they have one, or a colleague for support. They will also be given access to welfare counselling or medical advice where appropriate.

The Case Manager will identify a named representative from HR to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual. Particular care will 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 will 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 legal guardians of a young person/vulnerable adult involved should be told about the allegation as soon as possible where appropriate, if they do not already know of it. However, where a strategy discussion is required, or police or children's social care services need to be involved, the Case Manager will not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents/guardians. Parents/guardians will 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,

will not normally be disclosed. Parents/Guardians will also be made aware of the prohibition on reporting or publishing allegations about teachers in section 141F of the Education Act 2002 (see below). If parents/guardians wish to apply to the court to have reporting restrictions removed, they will be told to seek legal advice.

In addition, the Case Manager will take advice from the LADO, police and children's 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; and
- How to manage press interest if and when it should arise.

## **10. 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. It is important that every effort is made to reach a conclusion in all cases of allegations bearing in mind the safety or welfare of learners, including any in which the person concerned refuses to cooperate with the process. Wherever possible the accused will be given 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 these circumstances, and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

A 'settlement agreement' in which the member of staff agrees to resign and the employer



agrees not to pursue disciplinary action, with both parties agreeing a form of words to be used in any future employment reference, should never be used in these cases. Such an agreement will not prevent a thorough police investigation where that is appropriate. Nor can it override the statutory duty to make a referral to the Disclosure and Barring Service (DBS) where circumstances require.

## **11. RECORD KEEPING**

Details of allegations that are found to have been malicious should be removed from personnel 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 the confidential personnel file of the accused, and a copy 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 and it will 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 accused has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

Colleges have an obligation to preserve records which contain information about allegations of sexual abuse for the Independent Inquiry into Child Sexual Abuse (IICSA), for the term of the inquiry (further information can be found on the IICSA website). The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on employment retention.

## **12. REFERENCES**

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

## **13. TIMESCALES**

It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations will be investigated as a priority to avoid any delay. Target timescales are shown below: the time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation, but these targets should be achieved in all but truly exceptional cases. It is expected that 80 per cent of cases should be resolved within one month, 90 per cent within three months, and all but the most exceptional cases should be completed within 12 months.

For those cases where it is clear immediately that the allegation is unfounded or malicious, they should be resolved within one week. Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the college to deal with, if there are concerns about child protection, the college will discuss with the LADO. In such cases, if the nature of the allegation does not require formal disciplinary action, the college will institute appropriate action within three working days. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days.

## **14. OVERSIGHT AND MONITORING**

The LADO has overall responsibility for oversight of the procedures for dealing with allegations; for resolving any inter-agency issues; and for liaison with Worcestershire

Safeguarding Children's Partnership on the subject. The LADO will provide advice and guidance to the Case Manager, in addition to liaising with the police and other agencies, and monitoring the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process. Reviews should be conducted at fortnightly or monthly intervals, depending on the complexity of the case.

Police forces will also identify officers who will be responsible for:

- liaising with the LADO;
- taking part in the strategy discussion or initial evaluation;
- subsequently reviewing the progress of those cases in which there is a police investigation; and
- sharing information on completion of the investigation or any prosecution.

If the strategy discussion or initial assessment decides that a police investigation is required, the police should also set a target date for reviewing the progress of the investigation and consulting the Crown Prosecution Service (CPS) about whether to: charge the individual; continue to investigate; or close the investigation. Wherever possible, that review should take place no later than four weeks after the initial evaluation. Dates for subsequent reviews, ideally at fortnightly intervals, should be set at the meeting if the investigation continues.

## **15. SUSPENSION**

The possible risk of harm to learners posed by an accused person will be evaluated and managed in respect of those individuals involved in the allegations. In some rare cases, this will require the Principal/Deputy CEO, with advice from the Case Manager (or Deputy CEO/DSL if they are the case manager), to consider suspending the accused until the case is resolved. Suspension will not be an automatic response when an allegation is reported; all options to avoid suspension will be considered prior to taking that step. If the Case Manager is concerned about the welfare of other individuals in the community or the staff member's family, those concerns should be reported to the LADO or police. But suspension is highly unlikely to be justified on the basis of such concerns alone.

Suspension will be considered only in a case where there is cause to suspect a learner/learners at the college is/are at risk of significant harm or the case is so serious that it might be grounds for dismissal. Advice from the LADO will be sought in such cases.

The Principal/Deputy CEO will also consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements. In many cases an investigation can be resolved quickly and without the need for suspension. If the LADO, police and children's social care services have no objections to the member of staff continuing to work during the investigation, based on assessment of risk, the following alternatives could be considered by the Principal/ Deputy CEO before suspending a member of staff:

- redeployment within the college so that the individual does not have direct contact with the learner or learners concerned;
- redeploying to alternative work in the college so the individual does not have unsupervised access to learners;
- moving the learner 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;

These alternatives allow time for an informed decision regarding the suspension and will possibly reduce the initial impact of the allegation. This will, however, depend upon the nature of the allegation. The Principal/Deputy CEO will consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended.

If immediate suspension is considered necessary, the rationale and justification for such a course of action will be agreed and recorded by both the Principal/ Deputy CEO, Case Manager and the LADO. This will also include what alternatives to suspension have been considered and why they were rejected.

Where it has been deemed appropriate to suspend the person, written confirmation will be dispatched within one working day by the HR department, giving as much detail as appropriate for the reasons for the suspension. The person will be informed at the point of their suspension who their named support contact is within the organisation and provided with their contact details.

Children's Social Care services or the police cannot require the Principal/Deputy CEO to suspend a member of staff or a volunteer, although they should give appropriate weight to their advice. The power to suspend is vested to the College. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by the children's social care services and/or an investigation by the police, the LADO will canvass police and children's social care services for views about whether the accused member of staff needs to be suspended from contact with learners/young people in order to inform the College's consideration of suspension. Police involvement does not make it mandatory to suspend a member of staff; this decision will be taken on a case-by-case basis having undertaken a risk assessment.

## **16. 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 College 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 will adopt a similar procedure when making enquiries to determine whether the young person or persons named in the allegation are in need of 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 college without delay.

## **17. ACTION FOLLOWING A CRIMINAL INVESTIGATION OR A PROSECUTION**

The police or the Crown Prosecution Service (CPS) should inform the College and LADO immediately 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 the person has been charged. In those circumstances the LADO should discuss with the Case Manager whether any further action, including disciplinary action, is appropriate and, if so, how to proceed. The information provided by the police and/or children's social care services should inform that decision. The options will depend on the circumstances of the case and the consideration will need to take into account the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

## **18. ACTION ON CONCLUSION OF A CASE**

If the allegation is substantiated and the person is dismissed or the college 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 the Case Manager and their HR representative whether to refer the case to the DBS for consideration of whether inclusion on the barred lists is required; or to refer to the NCTL.

There is a statutory legal requirement for the college to make a referral to the DBS where it is thought 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 the college has removed the individual from relevant work with children/young people or the person has chosen to cease relevant work in circumstances where they would have been removed had they not done so. The DBS will consider whether to bar the person from working in regulated activity, which will include most work in schools, colleges and other educational establishments.

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.

Professional misconduct cases should be referred to the relevant regulatory body.

Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the Case Manager will consider how best to facilitate that. Most people will benefit from some help and support to return to work after a stressful experience. Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The Case Manager should also consider how the person's contact with the individual/s who made the allegation can best be managed if they are still a learner studying at college.

## **19. LEARNING LESSONS**

At the conclusion of a case in which an allegation is substantiated, the LADO will review the circumstances of the case with the Case Manager to determine whether there are any improvements to be made to the college's procedures or practice to help prevent similar events in the future. This should include issues arising from the decision to suspend the member of staff, the duration of the suspension and whether or not suspension was justified. Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated. The LADO and Case Manager will consider how future investigations of a similar nature could be carried out without suspending the individual.

## **20. ACTION IN RESPECT OF UNFOUNDED OR MALICIOUS ALLEGATIONS**

If an allegation is determined to be unfounded or malicious, the LADO should refer the matter to the Children's Social Care services to determine whether the child/young person 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/Deputy CEO will consider whether any disciplinary action is appropriate against the learner who made it; or whether the police should be asked to consider if action might be appropriate against the person responsible, even if they were not a learner.

**APPENDIX 1**

**SUMMARY OF INVESTIGATION INTO AN ALLEGATION OF ABUSE AGAINST Name:**

.....

**Establishment:** .....

**Explanatory Statement** (*Keeping Children Safe in Education: Statutory Guidance for Schools and Colleges September 19 part four*)

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 the confidential personnel file of the accused, and a copy 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 checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.

Colleges have an obligation to preserve records which contain information about allegations of sexual abuse for the Independent Inquiry into Child Sexual Abuse (IICSA), for the term of the inquiry (further information can be found on the IICSA website). All other records 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 if that is longer.

**Summary of Allegation made, including date:**

**How Allegation was followed up:**

**Outcome of Investigation\*:**

**Action taken and decisions reached:**

**Signed:** .....  
(Adviser for Safeguarding Children in Education/ Local Authority Designated Officer)

**Signed:** .....  
(Senior Designated Lead for Safeguarding/Principal/Deputy CEO/Chair of

Governors)

**Date:** .....

**I have been fully informed of the investigation**

**Signed:** .....  
(Member of staff)

**Date:** .....

## **DEFINITIONS**

**Substantiated** – A substantiated allegation is one which is supported or established by evidence or proof.

**\*Unsubstantiated** – An unsubstantiated allegation is not the same as a false allegation. It simply means that there is insufficient identifiable evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

**\*Unfounded** – The term 'unfounded' means there is no evidence or proper basis which supports the allegation being made, or there is evidence to prove that the allegation is untrue. There is the possibility that the allegation may be malicious, but it might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively, they may not have been aware of all the circumstances.

**\*Deliberately invented or malicious** – This implies that an allegation, either wholly or in part, has been made with a deliberate intent to deceive or cause harm to the person subject to the allegation. For an allegation to be classified as malicious, it will be necessary to have evidence, to prove the intention to cause harm. Care should be taken in dealing with such allegations as some facts may not be wholly untrue. Some parts of an allegation may have been fabricated or exaggerated but elements may be based on truth.

*(\* These definitions are taken from Keeping Children Safe in Education: Statutory Guidance for Schools and Colleges September 2019)*

## **CONTACTS**

Worcestershire **Local Authority Designated Officer (LADO)** Service: 01905 846221  
<http://www.worcestershire.gov.uk/safeguardingchildren>

Senior Designated Lead for Safeguarding 01905 722599/ 07799216454

Human Resources 01527 572671

Police Public Protection Unit: 0300 333 3000

## **REFERENCE**

### **For further reference please see:**

Local procedures contained on Worcestershire's Safeguarding Children Partnership website:

<http://www.worcestershiresafeguarding.org.uk/>  
<https://www.safeguardingworcestershire.org.uk/>

Disclosure and Barring Service:  
<https://www.gov.uk/dbs-update-service>

Department for Education Resources:  
<http://www.education.gov.uk/childrenandyoungpeople/safeguardingchildren>