



Procedure for Allegations of abuse made against teachers and other staff

November 2016

Reviewed and approved by Sentamu Academy Learning Trust Board of Directors on 5th December 2016

Vision Statement:

"Be Extraordinary"

Mission Statement:

We believe that young people achieve their fullest potential when they have a vision of everything their lives could become. The Bible (John 10:10) quotes Jesus as saying, "I have come that they may have life and may have it in all its fullness". As academies, we commit ourselves to inspiring our students, and equipping them with the resilience and determination to unlock their unique gifts and realise their highest aspirations. We aim to achieve this through following distinctively Christian principles, and focusing on four key areas, service, achievement, leadership and teamwork.

Sentamu Academy Learning Trust

Procedure for Allegations of abuse made against teachers and other staff

1. Responsibilities

The Sentamu Academy Learning Trust Board of Directors has primary responsibility for the welfare of staff. Some of these responsibilities, including the implementation of the Procedure for dealing with assaults and abuse of staff by students, have been delegated to the Local Governing Committee, the Principal and/or senior managers who shall comply with all policies and procedures issued by the Board of Directors and take into consideration any subsequent advice and recommendations given to them by the Directors.

The Board of Directors maintain the right to involve itself in any area of implementing this procedure that it deems appropriate.

2. Definitions

In this procedure the following words and expressions shall have the following meanings:

"Directors" or "Trust Board" means the Board of Directors of the Trust as constituted from time to time, or where appropriate any sub-committee of the Board of Directors.

"Governors" means the local governing body of each Academy referred to as the Local Governing Committee (LGC) as constituted, or where appropriate, any sub-committee of the Local Governing Committee. Each Local Governing Committee has specific delegated powers for the management of the business of each Academy as agreed by the Directors.

"Trust" means the Sentamu Academy Learning Trust and each of its academies;

"Executive Principal" means the Executive Principal of the Trust and may also be referred to as the "Principal" in this procedure;

"Principal" means the head of the Academy and may also be known as the Headteacher.

"Vice Principal" can also be referred to as a Deputy Headteacher.

"Designated Safeguarding Lead" refers to the Senior Leadership Team member of staff overseeing Safeguarding in the academy.

3. Introduction

Sentamu Academy Learning Trust takes its responsibility of care for its students seriously. We recognise that any possibility that a member of staff may have hurt a student must be investigated thoroughly, but 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.

4. The Law

The Department for Education have provided statutory guidance relating to the school's duties in handling allegations of abuse against teachers and other staff. Full guidance on this can be found in Part Four of the DfE Statutory Guidance "Keeping Children Safe in Education, May 2016" and forms the basis of this procedure.

The guidance relates to the following legislation.

- the Children Act 1989;
- section 175 of the Education Act 2002 (local authorities, governing bodies of maintained schools and institutions in the further education sector);
- section 157 of the Education Act 2002 and the Education (Independent School Standards) (England) Regulations 2010
- the Children Act 2004;
- section 11 of the Children Act 2004 (other agencies); and
- sections 141F, 141G and 141H3 of the Education Act 2002

5. Duties as an employer and employee

The Trust has a duty to respond to allegations that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children in their present position, or in any capacity.

This policy relates to members of staff who are currently working in any of our academies regardless of whether the academy is where the alleged abuse took place.

Allegations against a teacher who is no longer teaching should be referred to the police. Historical allegations of abuse should also be referred to the police.

The Trust and each of its academies have a duty of care to our employees. We will ensure we provide effective support for anyone facing an allegation and provide the employee with a named contact if they are suspended.

It is essential that any allegation of abuse made against a teacher or other member of staff or volunteer is dealt with very quickly, in a fair and consistent way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation. At any stage of consideration or investigation, all unnecessary delays should be eradicated.

7. Initial Allegation Made to the Academy

7.1 Initial action by the 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, rather they should give assurance that the information will only be shared on a 'need to know basis'.

They should:

- 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/happened; and
- sign and date the written record and immediately report the matter to the Designated Safeguarding Lead as well as via the Academy's child protection referral process e.g. cpoms

Any allegation of abuse by a member of staff on a student must be reported to the Designated Safeguarding Lead (DSL) and the Principal of the Academy where this is not the same person. Should the initial allegation first be made to any other member of staff then that member of staff must either request the person raising the allegation to report it to the DSL/Principal or if that is not possible to pass details of the allegation to the DSL/Principal immediately. The DSL will report any allegations to the Principal as a matter of urgency. Should the allegation be made against the Principal then this should be brought to the attention of the Chair of Governors and the Executive Principal of the Trust immediately. The DSL would in turn report the matter to the Child Protection Officer.

7.2 Initial action by the Child Protection Officer (CPO)/DSL/Principal

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

- obtain the 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;
- record any 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 immediately informed when any allegation appears to meet the criteria listed above. Such referrals should not be delayed in order to gather information.

8. Initial Consideration

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.

Some rare allegations will be so serious they require immediate intervention by children's social care services and/or police. The designated officer(s) should be informed of all allegations that come to a school or college's attention and appear to meet the criteria so they can consult police and children's social care services as appropriate.

Should the allegation meet any of the following criteria then the Principal should report the allegation to the Local Authority Designated Officer (LADO) the same day that the allegation is

received: *A teacher or member of staff (including a volunteer) in a 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; or*
- *behaved towards a child or children in a way that indicates they are unsuitable to work with children.*

In the first instance the Principal, or where the Principal/Executive Principal is the subject of the allegation the Executive Principal/Chair of Trust Board (the 'case manager'), will discuss the matter with the Local Authority Designated Officer and provide any further details of the allegation and the circumstances in which it was made.

The purpose of an initial discussion is for the designated officer(s) and the case manager to consider the nature, content and context of the allegation and agree a course of action. The designated officer(s) may ask the case manager to provide or obtain relevant additional information, such as previous history, whether the child or their family have made similar allegations previously and the individual's current contact with children. 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 children or there is evidence of a possible criminal offence. Where there is no such evidence, the case manager should discuss the allegations with the designated officer(s) in order to help determine whether police involvement is necessary.

If 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 meeting to be convened in accordance with the statutory guidance Working Together to Safeguard Children 2015 .

9. Action following initial consideration

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 should be recorded by both the case manager and the designated officer(s), and agreement reached on what information should be put in writing to the individual concerned and by whom. The case manager should then consider with the designated officer(s) what action should follow both in respect of the individual and those who made the initial allegation.

The case manager should inform the accused person about the allegation as soon as possible after consulting the designated officer(s). It is extremely important that the case manager provides them 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 should not do that until those agencies have been consulted, and have agreed what information can be disclosed to the accused.

The Trust must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the school or college or whether alternative arrangements can be put in place until the allegation or concern is resolved. All options to avoid suspension should be considered prior to taking that step (see further information on suspension which follows).

If there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion should be convened in accordance with the statutory guidance "Working together to safeguard children". If the allegation is about physical contact, the strategy discussion or initial

evaluation with the police should take into account that teachers and other school and college staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour.

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 designated officer(s) should discuss the next steps with the case manager. In those circumstances, the options open to the school or 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 should 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 designated officer(s) should discuss with the case manager how and by whom the investigation will be undertaken. In straightforward cases, the investigation should normally be undertaken by a senior member of the academy's staff.

10.Supporting those involved

The Trust has a duty of care to staff and volunteers. The Trust will act to manage and minimise the stress inherent in the allegations process. Support for the individual is vital 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 children's social care services or the police. The individual should be advised to contact their trade union representative, if they have one, or a colleague for support. Consideration should also be given to providing access to welfare counselling where available.

The case manager should appoint a named representative to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual. Particular care needs to be taken when employees are suspended 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 should 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 children's social care services need to be involved, the case manager should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers. Parents or carers should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but the parents or carers of the child should be told the outcome in confidence.

Parents and carers should also be made aware of the requirement to maintain confidentiality about any allegations made against teachers whilst investigations are on-going as set out in section 141F of the Education Act 2002. If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice.

In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's social care services, or the police as appropriate, should consider what support the child

or children involved may need.

11. Confidentiality

When an allegation is made, it is important to ensure that every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2002 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 (where that identification would identify the teacher as the subject of the allegation). The reporting restrictions apply until the point that the accused person is charged with an offence, or until 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 also cease to apply if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a judge lifts restrictions in response to a request to do so.

The legislation imposing restrictions makes clear that “publication” of material that may lead to the identification of the teacher who is the subject of the allegation is prohibited. “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 a parent who, for example, published details of the allegation on a social networking site would be in breach of the reporting restrictions (if what was published could lead to the identification of the teacher by members of the public).

In accordance with the Association of Chief Police Officers’ (ACPO) guidance the police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. (In exceptional cases where the police would like to depart from that rule, for example an appeal to trace a suspect, they must apply to a magistrates’ court to request that reporting restrictions be lifted.)

The case manager should take advice from the designated officer(s), 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.

12. Managing the situation and exit arrangements

12.1 Resignations

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 i.e. Schools and colleges have a legal duty to refer to the DBS anyone who has harmed, or poses a risk of harm, to a child or vulnerable adult; where the harm test is satisfied in respect of that individual; where the individual has received a caution or conviction for a relevant offence, or if there is reason to believe that the individual has committed a listed relevant offence; and that the individual has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left. The DBS

will consider whether to bar the person. Referrals should be made as soon as possible after the resignation or removal of the individual. Guidance on referrals can be found on https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/279926/dbs-referral-form-guidance.pdf

12.2 Settlement agreements

If the accused person resigns or their services cease to be used and the criteria are met, it will not be appropriate to reach a settlement/compromise agreement. A settlement/compromise agreement which prevents the Trust from making a DBS referral when the criteria are met would likely result in a criminal offence being committed as the Trust would not be complying with its legal duty to make the referral.

It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process. Wherever possible, the accused should be given a full opportunity to answer the allegation and make representations about it. But the process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be substantiated on the basis of all the information available, should continue even if that cannot be done or the accused does not cooperate. It may be difficult to reach a conclusion in those circumstances, and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

'Settlement agreements' (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.

13. Record keeping

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

- **Substantiated:** there is sufficient evidence to prove the allegation;
- **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
- **False:** there is sufficient evidence to disprove the allegation;
- **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

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 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. The record 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.

The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on record retention.

14.References

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

15.Timescales

It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations should 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 unsubstantiated 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 employer to deal with it, although if there are concerns about child protection, the employer should discuss them with the designated officer(s). In such cases, if the nature of the allegation does not require formal disciplinary action, the employer should 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.

16.Oversight and monitoring

The designated officer(s) has overall responsibility for oversight of the procedures for dealing with allegations, for resolving any inter-agency issues, and for liaison with the Local Safeguarding Children Board (LSCB) on the subject. The designated officer(s) 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 should also identify officers who will be responsible for:

- liaising with the designated officer(s);
- 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.

17.Suspension

The possible risk of harm to children posed by an accused person should be evaluated and managed in respect of the child(ren) involved in the allegations. In some rare cases that will require the case manager to consider suspending the accused until the case is resolved. Suspension should not be an automatic response when an allegation is reported: all options to avoid suspension should be considered prior to taking that step. If the case manager is concerned about the welfare of other children in the community or the teacher's family, those concerns should be reported to the designated officer(s) or police. But suspension is highly unlikely to be justified on the basis of such concerns alone.

Suspension should be considered only in a case where there is cause to suspect a child or other children at the academy is/are at risk of harm or the case is so serious that it might be grounds for dismissal. However, a person should not be suspended automatically: the case manager must consider carefully whether the circumstances warrant suspension from contact with children at the academy or until the allegation is resolved, and may wish to seek advice from their personnel adviser and the designated officer(s). In cases where the academy is made aware that the Secretary of State has made an interim prohibition order in respect of an individual at the school or college, it will be necessary to immediately suspend that person from teaching pending the findings of the National College for Teaching and Leadership's (NCTL) investigation.

181. The case manager should 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 designated officer(s), police and children's social care services have no objections to the member of staff continuing to work during the investigation, the case manager should be as inventive as possible to avoid suspension. Based on assessment of risk, the following alternatives should be considered by the case manager before suspending a member of staff:

- redeployment within the Academy/Trust 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;

18.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 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 employer without delay.

19. Specific actions

19.1 Following a criminal investigation or a prosecution

The police should inform the employer and designated officer(s) 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 person has been charged. In those circumstances, the designated officer(s) 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.

19.2 On conclusion of a case

If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the designated officer(s) should discuss with the case manager and their personnel adviser whether the school or college will decide to make a referral to the DBS for consideration of whether inclusion on the barred lists is required; and, in the case of a member of teaching staff, whether to refer the matter to the NCTL to consider prohibiting the individual from teaching.

There is a legal requirement for The Trust 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.

Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the case manager should 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 child or children who made the allegation can best be managed if they are still a pupil at the school or college. In respect of malicious or unsubstantiated allegations

If an allegation is determined to be unsubstantiated or malicious, the designated officers(s) should refer the matter to the children's social care 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 headteacher, principal or proprietor should consider whether any disciplinary action is appropriate against the pupil 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 pupil. Learning lessons

At the conclusion of a case in which an allegation is substantiated, the designated officer(s) should review the circumstances of the case with the case manager to determine whether there

are any improvements to be made to the school or 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 designated officers(s) and case manager should consider how future investigations of a similar nature could be carried out without suspending the individual.

20. Policy Review

The Board of Directors has agreed that this policy will be reviewed on a three yearly basis unless statutory guidance changes earlier. This review will take into consideration all aspects of applicable legislation and advice current at the time of the review. The next 'Period of Review' will be **November 2019**.