

Nanpean Community Primary School
Nurturing Children's Passion to Succeed



Allegations against Staff Policy
Headteacher: Mr Nicholls
Chair of Governors: Mrs Watts

Approved by Governors (Date): June 2021
Next Review (Date): June 2024

Nanpean Community Primary School
Nurturing Children's Passion to Succeed

Introduction

Nanpean School is committed to providing the highest level of care for both its pupils and its staff. It is extremely important that any allegations of abuse against a teacher, any other member of staff, or volunteer in our School is dealt with thoroughly and efficiently, maintaining the highest level of protection for the child whilst also giving support to the person, who is the subject of the allegation.

Our policy is in line with legislation and statutory guidance including, but not limited to, the following:

- The Children Act 1989 & 2004
- The Education Act 2002
- The Data Protection Act 1998
- Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children (HM Government 2015).
- Dealing with allegations of abuse against teachers and other staff: Guidance for local authorities, head teachers, school staff, governing bodies and proprietors of independent schools. DfE October 2012.
- Keeping Children Safe in Education (KCSIE, updated annually).

This policy is designed to ensure that all staff, pupils and parents or carers are aware of the procedure for the investigation of allegations of abuse in order that all complaints are dealt with consistently, and as efficiently as possible.

We hope that having a clear policy outlined will help pupils to feel comfortable that they can voice concerns about any member of staff. Allegations must be reported to the Head Teacher immediately or to the Chair of Governors where the Headteacher is the subject of concern. All allegations will be taken seriously and investigated immediately.

This policy only applies to adults currently working at Nanpean School. Allegations concerning someone who is no longer at the School will be reported directly to the police.

Purpose

The procedure for dealing with allegations against staff depends on the situation and circumstances surrounding the allegation. This policy must be followed when dealing with allegations but may be adapted to each case. This policy will be used alongside the Complaints Policy and Child Protection Policy.

This policy will be used in any case where it is suspected or alleged that a member of staff, a teacher or a volunteer at the school has:

- Behaved in such a way that may have harmed a child or may have intended to harm a child. Our Child Protection Policy outlines what it means to harm a child.
- Acted outside of the law in relation to dealings with a child.
- Behaved in any way that suggests they may be unsuitable to work 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 and social development.
- Ensure a fair and thorough investigation for all parties.

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

Procedure

Reporting an allegation

All concerns of poor practice or possible child abuse by staff should be reported immediately to the Headteacher. Complaints about the Headteacher should be reported to the Chair of the Governing Body who will then contact the Designated Officer of the Local Authority (LADO). Staff who are concerned about the conduct of a colleague towards a pupil are undoubtedly placed in a very difficult situation. They may worry that they have misunderstood the situation and they will wonder whether a report could jeopardise their colleague's career. All staff must remember that the welfare of the child is paramount and must report their concerns immediately.

The LADO will be contacted immediately by the Headteacher, Designated Safeguarding Lead (DSL), or, where appropriate, the Chair of Governors and a discussion will take place to decide whether:

- No further actions are needed.
- A strategy discussion should take place.
- There should be immediate involvement of Police or Social Care services.

The school will share available information with the Designated Officer of the Local Authority (LADO) about the allegation, the child and the person against whom the allegation has been made and consider whether a police investigation or a strategy discussion is needed. Representatives from other agencies may be invited into the discussion and could include representatives from health, social care, the GP and police.

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 the school is not conducting the investigation it will co-operate with investigative agencies. Internal investigations must be second to any safeguarding investigation and may need to be delayed until the external investigation is complete.

Supporting those involved

The person(s) who makes the allegation and their parents/carers:

Parents and carers will be notified if their child makes or is involved in an allegation against staff if they do not already know. However, if the police or social services are to be involved, they will be contacted first and will advise as to what information may or may not be disclosed to the parents. Parents and carers will be made aware of any progress in the investigation, and where there is no criminal prosecution, the outcome will be explained to them. This may be a disciplinary outcome. During a disciplinary hearing the deliberations and information used for making a decision are usually confidential, but parents will be told the outcome. Social services and the police may be involved, depending on the severity of the case, and will provide the school with advice on what type of additional support the child may need.

The School's Whistleblowing (Confidential Reporting) Policy is made available to staff, and enables staff to raise concerns or allegations against their colleagues in confidence and for a sensitive enquiry to take place.

The Employee:

Nanpean School has a duty of care to its employees and will do everything to minimise the stress of any allegations and the disciplinary process. The person who is the subject of the investigation

will be informed as soon as the allegation has been made, but only after the Headteacher has spoken to the Chair of the Governing Body. The employee will then be advised on what the next course of action will be. However, if the police or social services are to be involved, they will be contacted before the employee and will advise as to what information may be disclosed to the person under investigation. The named representative will keep the subject of the allegation informed of the progress of the case and other work-related issues. If that person has been suspended, they will keep them informed of any developments from school. If the employee is a member of a union or other professional association, they should be advised to contact that body at the outset of the investigation. The employee may need additional support and the school should consider what might be appropriate to best accommodate this. If it is a criminal investigation and the police are involved, they may provide this additional support. The school 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. It is a criminal offence to publish information that could lead to the identification of someone who is the subject of an allegation before they are charged or summonsed.

Suspensions

Nanpean School will not suspend a member of staff without serious consideration, and will not do it automatically once an allegation has been made. Depending on the nature of the case, it may be possible that alternative arrangements are made so that the individual can continue working, but is removed from the pupil making the allegation. A suspension may be decided upon if it is deemed that the child or other children may be at risk of harm, or if the nature of the case warrants a criminal investigation or if the case is so serious that it might be grounds for dismissal. The Headteacher / Chair of the Governing Body holds the power to suspend an employee but will be advised by the police and / or social care whether or not a suspension is necessary. Where there is a chance of suspension, the employee will receive confirmation within one working day and will be informed of the reason for the suspension. Suspension is a neutral act and does not infer guilt on any party.

Resignations

If an employee hands in their resignation when the allegation is made against them or during an investigation, the investigation will still continue until an outcome has been reached, with or without the person's co-operation. They will be given full opportunity to answer the allegation. Settlement agreements will not be used in situations which are relevant to these procedures. This policy also applies to members of staff who are no longer employed by the school and historical allegations will be referred to the police.

Additional considerations for supply staff

If there are concerns or an allegation is made against someone not directly employed by the school, such as supply staff provided by an agency, we will take the actions below in addition to our standard procedures.

We will not decide to stop using a supply teacher due to safeguarding concerns without finding out the facts and liaising with our local authority designated officer (LADO) to determine a suitable outcome.

The governing board will discuss with the agency whether it is appropriate to suspend the supply teacher, or redeploy them to another part of the school, while the school carries out the investigation.

We will involve the agency fully, but the school will take the lead in collecting the necessary information and providing it to the local authority designated officer (LADO) as required.

We will address issues such as information sharing, to ensure any previous concerns or allegations known to the agency are taken into account (we will do this, for example, as part of the allegations management meeting or by liaising directly with the agency where necessary) When using an agency, we will inform them of our process for managing allegations, and keep them updated about our policies as necessary, and will invite the agency's HR manager or equivalent to meetings as appropriate.

Definitions for outcomes 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 (this does not imply guilt or innocence)
- Unfounded: to reflect cases where there is no evidence or proper basis which supports the allegation being made

Record Keeping

Detailed records of all allegations made, investigations and outcomes should be kept in the personal file of the person who has been under investigation. This person should be given a copy of the same information. This will enable the school to:

- Provide all the necessary information for future schools if they require a reference. Where DBS checks highlight incidents of allegations that did not result in any criminal charges, records will need to show exactly what happened, what points of action were taken during and after the investigation and how the result of the investigation was reached.
- Prevent unnecessary re-investigation in the future if an allegation re-surfaces.

The record will be kept, including for people who leave the organisation, at least until the person reaches normal retirement age or for 10 years if that will be longer, from the date of the allegation. Allegations that are proven to be malicious will not be kept on employment records or used in employee references. The records will be kept by the school. Details of any allegation made by a pupil will be kept in the confidential section of their record.

Action on conclusion of the case

If the investigation results in the dismissal or resignation of a person, and that person has been charged with a criminal offence, a referral must be made immediately by the school to the Independent Safeguarding Authority. The school will be advised on this by the police and / or social 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.

Action in the case of false allegations

Where an allegation is proven to be false, the Headteacher and Chair of the Governing Body may refer to social services to determine whether a child is in need of special care, or to help to understand if they are being abused elsewhere. If an allegation is found to be intentionally factitious and malicious, the Headteacher will decide what the proper sanction will be for the pupil who made the false allegation. The Headteacher may wish to include the school governors when considering what action to take. The school has the power to exclude pupils who make false claims, or refer the case to the police if the school thinks a criminal offence has been committed. If

the claim has been made by a person who is not a pupil, the school will hand the information over to the police who may take further action against that person.

After the Case

No matter what the outcome is of an allegation of abuse against staff, the school 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.

Definitions

Significant Harm

This is the threshold where compulsory social care intervention must take place – this was introduced by the Children Act 1989. Harm includes not only ill-treatment (including sexual abuse and non-physical forms of ill treatment), but also the impairment of physical or mental health and the impairment of physical, emotional, social or behaviour development.

Abuse

Abuse can be either physical, sexual, emotional harm, or a form of neglect. The definitions of different types of abuse are below:

Abuse: A form of maltreatment of a child. Somebody may abuse or neglect a child by inflicting harm, or by failing to act to prevent harm. They may be abused by an adult or adults or another child or children.

Physical abuse: A form of abuse which may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child. Physical harm may also be caused when a parent fabricates the symptoms of, or deliberately induces, illness in a child.

Emotional abuse: The persistent emotional maltreatment of a child such as to cause severe and adverse effects on the child's emotional development. It may involve conveying to a child that they are worthless, unloved, inadequate, or valued only insofar as they meet the needs of another person. It may include not giving the child opportunities to express their views, deliberately silencing them or 'making fun' of what they say or how they communicate. It may feature age or developmentally inappropriate expectations being imposed on children. These may include interactions that are beyond a child's developmental capability as well as overprotection and limitation of exploration and learning, or preventing the child participating in normal social interaction. It may involve seeing or hearing the ill-treatment of another. It may involve serious bullying (including cyberbullying), causing children frequently to feel frightened or in danger, or the exploitation or corruption of children. Some level of emotional abuse is involved in all types of maltreatment of a child, although it may occur alone.

Sexual abuse: Involves forcing or enticing a child or young person to take part in sexual activities, not necessarily involving a high level of violence, whether or not the child is aware of what is happening. The activities may involve physical contact, including assault by penetration (for example rape or oral sex) or non-penetrative acts such as masturbation, kissing, and rubbing and touching the outside of clothing. They may also include non-contact activities, such as involving children in looking at, or the production of, sexual images, watching sexual activities, encouraging children to behave in sexually inappropriate ways, or grooming a child in preparation for abuse (including via the internet). Sexual abuse is not solely perpetrated by adult males. Women can also commit acts of sexual abuse, as can other children.

Neglect: the persistent failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health or development. Neglect may occur during pregnancy as a result of maternal substance abuse. Once a child is born, neglect may involve a parent or carer failing to: provide adequate food, clothing and shelter (including exclusion from home or abandonment); protect a child from physical and emotional harm or danger; ensure adequate supervision (including the use of inadequate care-givers); or ensure access to appropriate medical care or treatment. It may also include neglect of, or unresponsiveness to, a child's basic emotional needs.

Position of trust

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

Information Guide for Employees Facing Allegations

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

- Harmed a pupil or put a child at risk of harm.
- Committed a criminal act towards a pupil.
- Behaved in a way that raises concern about the risk you may pose to children or young people.

Initial action

As soon as possible after the allegation is made, the Head Teacher should consult the designated officer (LADO) to discuss the next action points, taking advice from social care and the police as needed. The police may advise that you are not told about the allegation immediately.

The Head Teacher's decision in consultation with the LADO will be one, or a combination of the following:

- a. The pupil is alleged to have suffered, or is likely to suffer, significant harm - which requires immediate referral to social care.
- b. A criminal offence is alleged – this requires referral to social care and police.
- c. The allegation represents poor or inappropriate behaviour – this should be considered under the disciplinary and/or capability procedures.
- d. The allegation is clearly and demonstrably without foundation and no further action will be taken.

If the conclusions of the initial discussions are a. or b., a strategy discussion should take place involving police, social care, the Head Teacher and LADO. You should not be present. The discussion will focus on the needs of the pupil(s) who may be at risk. It will determine what action should be taken regarding further investigation, but it is not part of any disciplinary procedures.

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

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

Types of possible investigation

The types of investigation that may be undertaken are:

- Child protection inquiries by social care.
- Criminal investigation by police.
- Disciplinary/capability investigation.

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

Suspension

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

- A pupil may be at risk.
- The allegations are so serious that dismissal for gross misconduct is possible.

- Suspension is necessary to allow the conduct of the investigation to proceed unimpeded.

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

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

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

Other people, including other staff, should only be told about the allegation on a 'need-to-know basis'.

Notification may be delayed if the police think this could prejudice an investigation.

Those who will be told of the allegation and likely course of action include you, the pupil concerned, her parent, the person making the allegation, your manager, the Headteacher, the LADO and the investigating agencies as above.

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

Support

You should expect to be:

- Advised to contact your union representative.
- Given a support contact within the organisation who should keep you up-to-date with the progress of your case.
- Given a contact, if you are suspended, who will update you about normal organisation activities. Social contact with colleagues should not be precluded unless this would be detrimental to the investigation. The type of information and frequency of contact should be agreed, but colleagues should not comment on or discuss the investigation.
- Offered staff counselling service and/or occupational health support.

This may be a stressful time, so in addition to contacting your union representative, you are advised to see your GP if you think your health may be affected. You also have access to the school Employee Assistant Scheme.