

Bridgwater College Trust

Managing Allegations Against Staff Policy

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Written by:

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Signature:

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Signature:

Academy

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SAFEGUARDING - Managing Allegations Against Staff

1. **INTRODUCTION**

WHAT LEGISLATION DOES THIS GUIDANCE RELATE TO?

The Children Act 1989
Section 175 of the Education Act 2002 (local authorities, governing bodies of maintained Academies and institutions in the further education sector)
Section 157 of the Education Act 2002 and the Education (Independent Academy Standards) (England) Regulations 2010
The Children Act 2004
Section 11 of the Children Act 2004 (other agencies).

The Trust will ensure that **all** employees, trustees, governors and volunteers are aware of the content of this policy in particular what they should do if a student discloses that s/he may be being abused by a member of staff. Attention should also be drawn to the appendices which contain guidance on 'Preventing the Abuse of Trust' (**Appendix 3**), on 'Code of Conduct'

It is imperative that everyone who deals with allegations of abuse maintains an open and enquiring mind. It is also essential that all the agencies concerned act in a manner and at a speed commensurate with the nature and level of the concern once suspicions are brought to their attention. "Working Together to Safeguard Children 2015" points out that the police have a duty to investigate criminal offences committed against children and such investigations should be carried out sensitively, thoroughly and professionally.

Media attention during an investigation of an allegation can add to the problems for the member of staff and may even hinder an investigation. We will take immediate advice and support for dealing with media inquiries. Regrettably, it is often the case that the media become aware of allegations through parents or students. Any briefings to staff, trustees and governors will emphasise the need to avoid media coverage. Staff have protection under the Human Rights Act 2000 to 'privacy'. Any early indications of media coverage will be notified to the member of staff where possible.

It is essential that staff establish the safest possible learning and working environments. Through this they safeguard young people and reduce the risk of staff being falsely accused of improper or unprofessional conduct. To that end **Appendix 4** sets out joint employer/teacher association guidance on minimising risk and **Appendix 5** is guidance produced by the Investigation and Referral Support Co-ordinators (IRSC) national network on developing safe working practices. Both of these documents have been used to form the basis of Trust guidance and advice to staff.

2. **DEFINITIONS**

DESIGNATED EMPLOYEE

The Chief Executive Officer is the Designated Employee; where an allegation may be made against the Chief Executive Officer, the Chair of the Trust will be nominated as the Designated Employee. The Government's child protection guidance "Working Together to Safeguard Children 2015" outlines the roles and responsibilities of statutory agencies, professionals, the voluntary sector, and the wider community, in relation to child protection.

NOMINATED GOVERNOR

There is a nominated trustee, and each Academy has a nominated governor
their role involves:-

- (a) ensuring, in liaison with the Chief Executive Officer/Trust Safeguarding Lead, that the Trust has a safeguarding policy and procedures in place which are consistent with Safeguarding Board procedures;
- (b) ensuring that an annual item is placed on the Trustee/Governors' agenda to report on changes to safeguarding policy, procedures, changes in statutory obligations, law, training undertaken by the Designated Employee, other staff, trustees and governors, the number of incidents/cases (without details or names) and the place of safeguarding issues in the Academies curriculum;
- (c) liaison (with due regard to issues of confidentiality) with the Chief Executive Officer/Trust Safeguarding Lead re allegations of child abuse;
- (d) responsibility for the oversight of procedures relating to liaison with the Children and Young People's Directorate and the Police in relation to any allegations of child abuse made against the Chief Executive Officer, including possible involvement in multi-agency strategy discussions; (NB: The Nominated Trustee will have no direct role in undertaking safeguarding enquiries or criminal or disciplinary investigations or investigation of an allegation against the Chief Executive Officer. He/she will be a liaison person ensuring good communication between all parties and provide information to assist any such enquiries or investigation); and
- (e) attendance at training for nominated trustees/governors.

SCOPE OF GUIDANCE

This guidance should be used in respect of all cases in which it is alleged that a ~~teacher or~~ member of staff (including a volunteer) has:

- (a) behaved in a way that has harmed a child or may have harmed a child;

- (b) possibly committed a criminal offence against or related to a child; or
- (c) behaved towards a child or children in a way which indicates he/she is unsuitable to work with children.

TYPE OF ALLEGATION

Physical Abuse

Physical abuse 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 or carer fabricates the symptoms of, or deliberately induces, illness in a child.

Evidence shows that allegations of physical abuse are more common than those of a sexual nature. They often arise from incidents involving physical intervention or classroom management, when the actions of members of staff are perceived as an excessive use of force, an assault, or both.

The Trust has a robust recording system to log any incidents that have resulted in the use of restraint. Staff should refer to the Use of Physical Force Policy which follows DfE guidelines.

Sexual Abuse

Sexual abuse involves forcing or enticing a child or young person to take part in sexual activities, including prostitution, whether or not the child is aware of what is happening. The activities may involve physical contact, including penetrative (eg rape, buggery or oral sex) or non-penetrative acts. They may involve non-contact activities, such as involving children in looking at, or in the production of, sexual online images, watching sexual activities, or encouraging children to behave in sexually inappropriate ways.

Allegations of sexual abuse can be extremely emotive and, therefore, difficult to deal with. They can range from sexual assault to allegations of inappropriate touching, language or behaviour which are perceived to have a sexual motive e.g., “grooming”. All members of staff have a responsibility towards the children in their establishment and a majority of staff are placed in a position of trust. They should be aware of any safe practice guidelines that are in place and be clear as to what constitutes inappropriate contact with students. Clear codes of conduct should be adhered to.

Emotional Abuse and Neglect

Emotional abuse is the persistent emotional maltreatment of a child so as to cause severe and persistent adverse effects on the child’s emotional development. It may involve conveying to children that they are worthless or unloved, inadequate, or valued only insofar as they meet the needs of another person. It may feature age or developmentally inappropriate expectations being imposed on children. These may include interactions that are beyond the 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 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, though it may occur alone.

Neglect is 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).
- ensure access to appropriate medical care or treatment.

It may also include neglect of, or unresponsiveness to, a child's basic emotional needs.

Issues of emotional abuse and neglect are much more complex and are more likely to come to light via the Trust's complaints procedures. They do occur in Academies, both in acts of commission and omission e.g., bullying comments, racist remarks (emotional abuse) or failing to address this in others (neglect). Where the alleged behaviour is deemed to cause significant harm to the health or emotional wellbeing of the child, a child protection referral should be made.

The Academies will record and report all incidents of racial abuse.

3. **PROCEDURE**

Hearing an Allegation of Abuse and/or Neglect

Children who report to a member of staff that a member of staff or volunteer has abused them must be listened to and heard, whatever form their attempts to communicate their worries take. The following points give guidance on how to deal with a child who makes an allegation:

- The child should be listened to but not interviewed or asked to repeat the account. Avoid questions, particularly leading questions.
- The child should not be interrupted when recalling significant events.
- All information should be noted carefully, including details such as timing, setting, who was present and what was said, in the child's own words. The account should be obtained verbatim or as near as possible.
- Care should be taken not to make assumptions about what the child is saying or to make interpretations.
- Listened to means just that; on no account should suggestions be made to children as to alternative explanations for their worries.
- The written record of the allegations should be signed and dated by the person who received them as soon as practicable.
- All actions subsequently taken should be recorded.
- Academies will ensure staff are trained with the relevant child protection training as determined a national level

A member of staff must not promise confidentiality to a student who makes an allegation. In responding to a child who makes disclosures, account should be taken of the age and understanding of the child and whether the child or others may be at risk of significant harm. While acknowledging the need to create an environment conducive to speaking freely, the member of staff should make it clear to a student who approaches him/her asking for confidentiality that, he/she will need to pass on what has been told so as to ensure the protection of the child (ren), in accordance with the local procedures agreed by the Safeguarding Board. Within that context, the child should then be assured that the matter will be disclosed only to people who need to know about it. The support needs of a child who expresses concerns about significant harm should be considered and met, utilising resources within and/or beyond the Trust as necessary. The child and family must be given strong guidance to keep the matter confidential.

Local child protection procedures should be used for any allegations against adults employed within the Trust as well as for allegations against third parties with no involvement with the Trust.

Action Taken by a Member of Staff who Hears an Allegation

The member of staff receiving the allegation of abuse against another member of staff or volunteer should, following the considerations of 3.1.2 above, report this immediately to the Chief Executive Officer or Trust Safeguarding Lead, unless the Chief Executive Officer or the Trust Safeguarding Lead are the persons against whom the allegation is made. An allegation against the Trust Safeguarding Lead should be reported to the Chief Executive Officer, immediately.

An allegation against the Chief Executive Officer should be reported to the Trust Safeguarding Lead, who will contact the Nominated Trustee immediately.

Action to be taken by the Chief Executive Officer/Trust Safeguarding Lead (Nominated Trustee)

Immediately an allegation is made, the Chief Executive Officer or Trust Safeguarding Lead (or, in cases where the allegation is against the Chief Executive Officer, the Nominated Trustee) should where possible:-

- (a) obtain written details of the allegation, signed and dated from the person who received the allegation (not from the child who made and/or was the subject of the allegation) and countersigned and dated by the Chief Executive Officer/Trust Safeguarding Lead (Nominated Trustee); and
- (b) record any information about times, dates, locations and names of potential witnesses

Allegation made to the Police or Children's Social Care

If an allegation is made to the Police, the officer who receives it should report it to the Force dedicated Liaison Officer without delay.

Initial Consideration of Allegation

The Chief Executive Officer/Trust Safeguarding Lead (Nominated Trustee) will obtain further details of the allegation and the circumstances in which it was made. The discussion should also consider whether there is evidence/information that establishes that the allegation is false or unfounded.

NB: At this stage the Chief Executive Officer/Trust Safeguarding Lead (Nominated Trustee) must not investigate the allegation or inform the member of staff or volunteer about the allegation.

If the allegation is patently false refer to paragraph 4 below. If the allegation is not patently false and there is cause to suspect that a child is suffering, or is likely to suffer significant harm, the Chief Executive Officer and Trust Safeguarding Lead will contact the Local Authority Designated Officer (LADO) for advice on how to proceed.

Alternatively if there is cause to suspect that a criminal offence might have been committed the Chief Executive Officer/Trust Safeguarding Lead

(Nominated Trustee), will involve the Child Protection Officer, the Police and any other agencies involved with the child.

The Chief Executive Officer / Trust Safeguarding Lead in consultation with the nominated trustee must ensure there is no objection by the Police or LADO before contacting any parties. Subject to there being no objection, the Chief Executive Officer / Trust Safeguarding Lead (Nominated Trustee) should:-

- (a) inform the child, children or parent making the allegation and explain the likely course of action;
- (b) ensure the parent/carer of the child who is the alleged victim have been informed of the fact of the allegation and of the likely course of action;
- (c) inform the member of staff against whom the allegation is made and explain the likely course of action;
- (d) inform the Chair of Trustees.
- (e) consider whether other staff/parents need to be advised of the situation.

Where the Police **or LADO** object to the action outlined in a-c above, the Chief Executive Officer / Trust Safeguarding Lead /Nominated Trustee should be informed accordingly and arrangements made to keep them informed as to when these notifications may take place or have taken place.

A written record of the action taken under this section should be made by the Chief Executive Officer/Trust Safeguarding Lead (Nominated Trustee) (see below).

Action Following Initial Consideration

Where the initial consideration decides that the allegation does not involve a possible criminal offence, it will be for the Chief Executive Officer and head of HR Services (Nominated Trustee) to deal with it through the Disciplinary and Appeals Procedure

For Guidance on Investigative Procedures, see **Appendix 2**.

If a criminal investigation is required, the Police will aim to complete their enquiries as quickly as possible consistent with a fair and thorough investigation and will keep the progress of the case under review. They should at the outset set a target date for reviewing progress of the investigation and consulting the Crown Prosecution Service (CPS) about whether to proceed with the investigation, charge the member of staff or volunteer with an offence, or close the case. Wherever possible that review should take place **no later than four weeks** after the initial action meeting and if the decision is to continue to investigate the allegation, dates for subsequent reviews should be set at that point.

Once the member of staff or volunteer has been informed of the allegation by the Police, s/he must be suspended from work as soon as practicable (see Appendix 1).

If the Police and/or CPS decide not to charge the member of staff or volunteer with an offence or decide to administer a caution or the person is acquitted by a Court, the Police should, wherever possible, pass all information they have which may be relevant to a disciplinary case to the Head of HR Services within **three working days** of the decision. In those circumstances the process to be followed will be as described above.

If the person is convicted of an offence the Police should inform the Chief Executive Officer and Head of HR Services straight away so that appropriate management action can be taken i.e., dismissal.

Referral to DfE

If, on conclusion of the case, the Trust determine to dismiss or cease to use the person's services or the person resigns or ceases to provide his/her services, the Head of HR Services will arrange for a referral to be made as soon as practicable to the DfE Children's Safeguarding Operations Unit.

Post Investigation – Recommended Action

If the member of staff or volunteer has been directed to work from home, stay away from the establishment or suspended and it is decided not to proceed with any form of disciplinary action or to dismiss, the Chief Executive Officer (Nominate Trustee) and Head of HR Services should meet the member of staff (who has the choice to be accompanied by a senior union/professional association representative) or volunteer to discuss the arrangements for his/her return to work.

Other than in the event of dismissal, the Chief Executive Officer (Nominated Governor) and Head of HR Services should provide the opportunity for informal counselling to the member of staff or volunteer. This could be used to give appropriate guidance, support and reassurance and help, where necessary, to rebuild confidence. There may also be a need for specific guidance and sympathetic consideration may need to be given to a member of staff for other employment options.

On the conclusion of any investigation and any related disciplinary proceedings, the child or children who made the allegations and their parents should be informed of the outcome of the proceedings. This should be prior to the person's return to work if s/he has been suspended. In some circumstances, consideration should be given to the broader disclosure of details of the outcome, together with reasons, for example, where the issues are of general importance, have become common knowledge or have been the subject of general gossip and there is a need to provide accurate details for public information. The Trust's Press Office may be able to offer appropriate advice.

Appropriate counselling and support should be offered to the child or children who made the allegations and, where appropriate, their parents, by the time the member of staff returns to work.

It is important that a clear and comprehensive summary of any allegations made, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on a person's confidential

personnel file, 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 if the person has moved on. It will provide clarification in cases where a future DBS Disclosure reveals information from the police about an allegation that did not result in a criminal conviction. It will also help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record should be retained at least until the person has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

The Chief Executive Officer/Nominated Trustee may find it helpful to consider at the conclusion of the investigation whether there are any general matters arising from it which should be brought to the attention of managers within the Children and Young People's Directorate or of the Safeguarding Board as perhaps warranting a review of local policy or procedures. Any training needs of staff might also be considered as part of such a review. The publication of any such information to managers or the Safeguarding Board should preserve confidentiality for the member of staff and children involved in the investigation.

4. **ALLEGATIONS WITHOUT FOUNDATION**

Where it is considered by the Chief Executive Officer (Nominated Trustee) and Head of HR Services that the allegation is demonstrably false or malicious, the Chief Executive Officer (Nominated Trustee) should:

- (a) take account of the fact that if a child has made an obviously false allegation of abuse, this may well be strong indicator of problems of abuse elsewhere which require further exploration. The best way for this to be achieved is through an inter-agency referral in order that any underlying causes can be teased out;
- (b) inform the staff member or volunteer orally and in writing of the allegation and the fact that no further action is to be taken under disciplinary or safeguarding procedures. The member of staff may be accompanied by a trade union representative or work colleague at any meeting;
- (c) discuss with the staff member or volunteer the appropriateness of them continuing to teach or work with the student. Clearly the ability of the Chief Executive Officer to reorganise teaching/working arrangements will be dictated by many factors and may not be feasible in all cases. It would however be useful to establish what additional support may be required in both the short and the long term to the staff member or volunteer when working with the student.
- (d) offer counselling and/or informal professional advice to the staff member or volunteer is appropriate and the form either might take;
- (e) inform the parents of the child or children of the allegation and the outcome in writing;
- (f) consider appropriate counselling and support for the child(ren) who made the allegation(s) and, where appropriate, their parents; in particular;

- (g) consider what follow up action should be taken in regard to a person or child who has made an allegation that is shown to be false, especially if it is shown to have been made maliciously and advise the staff member/volunteer who has been the subject of the allegation of what decisions have been made.
- (h) where the allegation has been made by a person other than the alleged child victim themselves, consideration should be given to informing the parents and child of the fact of the unfounded allegation and providing support as necessary; and
- (j) prepare a report, embodying a-f above and giving reasons for the conclusion that the allegation is false and what, if any, action should be taken against the child(ren) if the allegation is believed to be malicious.

GUIDANCE ON SUSPENSIONS FROM WORK

1. Considering whether Suspension is appropriate during an Investigation

1.1 The provisions for any suspension of Trust staff are set out in the Trust's Disciplinary Procedure. Decisions on suspensions are taken by Chief Executive Officer and Head of HR Services or the Board of Trustees (action by the Nominated Trustee in relation to the Chief Executive Officer must be notified to the full Board of Trustees).

1.2 Staff against whom an allegation of abuse is made should not be suspended automatically. The Chief Executive Officer (Nominated Trustee) should consult with the Head of HR Services and take proper account of any recommendation/requirements which may be made by the other agencies such as the LADO and Police, at the Strategy Meeting before a decision to suspend is taken.

1.3 When considering suspension, the Strategy Meeting will concentrate on the following factors:

(a) the nature of the allegation.

Consideration should be given to the nature of the allegation, the severity/frequency of the alleged incident and any other relevant background information about the member of staff or volunteer and child concerned.

(b) assessment of the presenting risk.

The Chief Executive Officer (Nominated Trustee) should simply record that an allegation has been made, the general nature of the allegation, when and where the incident is alleged to have occurred, who is involved and any other persons present. This information should be discussed with the Head of HR Services. A child's ability to communicate effectively may be affected by a range of factors, for example, learning or language difficulties, emotional/social behavioural difficulties, other special needs disabilities, English being an additional language, shock and fear. The fact that a child may not be able to articulate or corroborate an allegation should not in itself preclude suspension or a thorough investigation by the appropriate agencies.

(c) the context in which the allegation occurred.

This is crucial information. It is important to consider whether the actions which resulted in the allegation would be compatible with the work which the member of staff would normally be required to do and whether it is normal practice within the Trust. For example, was the member of staff pursuing the normal professional duties in a part of the establishment where they would normally be? Understanding the context helps to inform the assessment of the presenting

risk following an allegation being made and this will help determine if the alleged actions were either reasonable in the circumstances or corroborate the allegations.

- (d) contact with children

In considering the member of staff or volunteer's contact with children, thought should be given to their usual working practice and any potential risks, either to the children or the member of staff or volunteer. If continued access to children would pose a risk alternative arrangements should be agreed.

- (e) any other relevant information.

If the nature of the allegation is such that an interagency strategy discussion is held, the issue of suspension and information sharing will be considered. The outcome of these strategy meetings may be that the suspension of the member of staff is recommended. In some cases Police and Social Care may also determine how and when information is shared in relation to their own investigative procedures. This may be particularly pertinent in relation to sharing the detail of an allegation with the accused member of staff.

- (f) alternatives to suspension.

While weighing the factors as to whether suspension is necessary, an available alternative to suspension may be considered. This may be achieved by:

- mutual agreement to refrain from work
- leave of absence.
- undertaking different duties which do not involve direct contact with the individual child or other children.
- sick leave (if certified by a GP)
- providing a classroom assistant or other colleague to be present throughout contact time.

If the member of staff is not based in an Academy then an alternative may be to:

- undertake office duty.
- undertake non-contact tasks only.

1.4 Suspension may be considered at any stage of an investigation. Suspension is a neutral act, not a disciplinary sanction, and for a member of staff will be on full pay.

1.5 In all cases where suspension is being considered, the Chief Executive Officer /Head of HR Services (Nominated Trustee) should advise the member of staff to seek assistance from his/her trade union.

2. **An Interview to consider Suspension of Member of Staff**

- 2.1 Where suspension is being considered, an investigatory interview should be arranged in accordance with the Trust's Disciplinary Procedure. The Chief Executive Officer (Nominated Trustee) should consult with the Head of HR Services.
- 2.2 Where the LADO or Police are involved in a criminal investigation, any interview arranged, where suspension is considered, should not be conducted without their prior agreement. Where there is no police involvement, an interview should be arranged in accordance with the following procedures.
- 2.3 When called to an interview where suspension is a possible outcome the member of staff should be advised to seek the advice and assistance of his/her County trade union representative. The member of staff may be accompanied by a County trade union representative or work colleague. He/she, where accompanied, should be offered the opportunity of a brief meeting with the representative or colleague before the interview.
- 2.4 The member of staff should be informed at the outset of the interview that an allegation has been made and that, at the conclusion of the interview, suspension might occur. It should be made clear, however, that the interview is not a formal disciplinary hearing but is for the purpose of raising a serious matter which may lead to suspension and further investigation.
- 2.5 The member of staff or volunteer should be given as much information, including reasons for any proposed suspension, as is consistent with not interfering with an investigation about the allegation. This meeting is not concerned with examination of the evidence but is an opportunity for the member of staff to make representations concerning any possible suspension. The member of staff should be given an opportunity to make such representations after the information has been given and the reasons for any proposed suspension made out. A brief adjournment should be offered to the member of staff prior to response. A detailed note should be made of the meeting.
- 2.6 If, as a result of the interview, it is considered by the Chief Executive Officer (Nominated Trustee) that suspension is necessary along with a full investigation of the allegation, the individual should be advised that he or she is suspended from duty. Written confirmation of the suspension should be dispatched within three calendar days, giving reasons for the suspension.

3. **After a decision to Suspend pending Investigation**

- 3.1 Where a member of staff has been suspended, the Board of Trustees should be informed that a member of staff has been suspended pending investigation, reinforcing to the Trustee that the suspension is a neutral act. It is inadvisable to provide more than the minimum information necessary, as more than this would prejudice governors' impartiality in any subsequent hearing or appeal in disciplinary

proceedings. Where the Chief Executive Officer has been suspended, the implications for the Trust's management will need to be considered including the arrangements for an acting Chief Executive Officer.

- 3.2 The student or parent making the allegation should be informed in confidence that the staff member/volunteer will not be attending establishment for the present time. Where the student is under 18, his or her parents should normally be informed, in confidence, in so far as to do so is consistent with wider child protection considerations.
- 3.3 Senior staff in the Trust who need to know of the reason for the suspension should be informed so far as is necessary in the particular circumstances. The Chief Executive Officer (Nominated Trustee) should take a decision on informing other staff colleagues of the suspension.
- 3.4 The Chief Executive Officer (Nominated Trustee) should discuss with the nominated trustee the extent to which it is necessary to make a statement to parents, having considered the need to avoid unwelcome publicity.
- 3.5 In certain circumstances, it may be necessary for the Chief Executive Officer (Nominated Trustee) to provide immediate reassurance to parents and children and there may be a need for information to continue to be provided during the course of an investigation to parents, children and other colleagues.
- 3.6 In respect of paragraphs 3.3, 3.4 and 3.5 guidance should be sought from the Head of HR Services or, where relevant and appropriate, from the LADO, Social Care or the Police.
- 3.7 The Chief Executive Officer (Nominated Trustee) in consultation with the Head of HR Services should consider carefully, and keep under review, decisions as to who is informed of the suspension and investigation and to what extent confidentiality can or should be maintained, according to the circumstances of a particular case. In a situation where a matter becomes common knowledge or the subject of general gossip, it may be desirable to provide an accurate statement for public information.

4. **Support for Staff during the Period of Suspension**

- 4.1 The member of staff suspended should be given the name of senior member of staff as an information contact. The main role of the contact person is to provide information as to the progress of the investigation. Social contact with colleagues and friends within the Trust should not be precluded except where it is likely to be prejudicial to child protection enquiries, criminal investigations or disciplinary processes.
- 4.2 Although it is the aim that all investigations should be conducted as speedily as possible consistent with establishing the full facts, arrangements should be made for the individual, or his or her representative, to be contacted regularly with information on progress and developments on the case. These arrangements should not

preclude him/her, or his or her representative, contacting those conducting the investigation at any time.

- 4.3 According to the needs and wishes of the member of staff to be kept informed, a colleague contact should also be in a position to provide information about developments at the Academy/Trust in general.
- 4.4 In some cases, it may be appropriate to ask whether welfare counselling or the support of an Occupational Health provider would be helpful, or to respond to a request for such further support.

5. **Support for Others Concerned**

- 5.1 Support will be needed for the child or children making the allegations and their parents. Consideration should be given to the form such support should take.
- 5.2 Consideration should also be given to what support may be needed for others within the Trust, both staff and students, according to the circumstances of the alleged abuse. In some cases, therapeutic counselling from expert sources may be necessary. Advice on this can be obtained via the Safeguarding Board/Children and Young People's Directorate.

6. **Where no Action is taken to Suspend**

- 6.1 The Chief Executive Officer (Nominated Trustee) should meet the member of staff to explain the circumstances which led to consideration of suspension and further explain any follow-up action which it is proposed to take. The member of staff may be accompanied by a County trade union representative or work colleague.
- 6.2 According to the circumstances of the case, appropriate assistance or advice may be offered. The Chief Executive Officer/Nominated Trustee should seek to establish what support, if any, is required and, where appropriate and acceptable to the member of staff should seek advice from the Head of HR Services. According to circumstances, appropriate counselling services should be considered.

GUIDANCE ON INVESTIGATIVE PROCEDURES AFTER CHILD PROTECTION AND CRIMINAL OFFENCE QUESTIONS HAVE BEEN RESOLVED

1. **The Aim** of an investigation is to obtain, as far as possible, a fair and balanced picture, which should be reflected in an accurate written record. The aim is not to prove or disprove an allegation. The investigation is a fact finding exercise and is preliminary to considering the appropriateness of disciplinary action.
2. Undertakings of confidentiality should not be given to either a person making allegations or those interviewed. All evidence compiled in the investigation and to be relied on should be made available to the parties in any subsequent disciplinary proceedings and those giving evidence in the investigation should be so informed.
3. **Children or parents making allegations** should be interviewed and a record made of their allegations in the form of signed and dated statements (See section 3.1 “Listening to Children”). The member of staff’s trade union/professional association representative may attend these interviews in order to observe, but not to participate, subject to the agreement of the parent of the student being interviewed, or in the case of an adult, their approval. If these statements are made in the course of an internal investigation then they may be passed to the police should the matter subsequently become the subject of a police investigation. As a matter of good practice, the authors of the statements should be informed that they might be disclosed to the police. Any statements etc which are used in the course of disciplinary hearings should be disclosed to the subject of the hearings, in accordance with the Trust’s Disciplinary Procedure.
4. **PRELIMINARY STAGES**
 - 4.1 The person undertaking the investigation should seek advice from the Head of HR Services, and should familiarise him/herself with any relevant procedures and guidelines.
 - 4.2 The person investigating should
 - define areas to be investigated
 - draw up a provisional list of those to be interviewed and a list of topics to be discussed, during the investigation
 - check corroborative evidence
 - assess the credibility of the person making the allegation.
5. **THE INVESTIGATION PROCESS**
 - 5.1 Interviews should be carried out as soon as possible. A statement should be taken from each person, signed and dated. The person carrying out the investigation should have access to assistance as necessary to make the record. A suitable venue and time should

be selected to encourage co-operation and the opportunity to be accompanied should be offered to each interviewee. At the beginning of an interview, a general explanation of the purpose of the investigation should be provided.

- 5.2 If, at any stage during the investigation, new evidence emerges which make a referral necessary under local safeguarding procedures or to the police, the investigation should be held in abeyance immediately following such a referral. Consideration should also be given as to whether suspension is appropriate in such circumstances. The disciplinary investigation should only be resumed if the responsible child protection agency and/or the police indicate that such resumption will not interfere with any child protection enquiries or criminal investigations.

6. **INTERVIEWING A MEMBER OF STAFF WHO IS THE SUBJECT OF AN ALLEGATION**

- 6.1 The point at which this occurs will depend upon the nature of the allegation and the investigation process.
- 6.2 The member of staff should be informed of:-
- his/her rights under the Trust's Disciplinary Procedure, including the right to representation.
 - the allegation and invited to respond and to make a statement.
 - the right either to respond or decline to respond.
- 6.3 Full notes should be taken of the interview and the member of staff invited to read and sign them as a true record after the interview. (A copy of the notes will be given to the member of staff.)
- 6.4 The member of staff should be invited to identify any persons who may have information relevant to the investigation. These names should be added to the list of those to be interviewed.

7. **COMPILING A REPORT**

- 7.1 Once all the relevant persons have been interviewed and all the relevant issues have been explored, the investigation is complete. The details obtained and the statements taken should then be compiled into a report by the Investigating Officer for consideration by the Chief Executive Officer or Nominated Trustee and Head of HR Services.
- 7.2 Consideration should again be given as to whether there are matters which should be referred under local safeguarding procedures or to the police and whether suspension is appropriate. If there is such a referral, further proceedings at Academy/Trust level should be held in abeyance, and only resumed in accordance with the process outlined at 5.4 above.

8. **SUBSEQUENT ACTION**

- 8.1 A decision will need to be taken at this stage by the Chief Executive Officer, if the Chief Executive Officer is the subject of the investigation the Nominated Trustee and the Head of HR Services advisers on whether further action should be taken, including the possible consideration of the report under disciplinary proceedings.

Joint NEOST/Teacher Union Guidance for teachers, education staff and volunteers on preventing the abuse of trust

A relationship of trust, for the purposes of this Guidance, is one where a teacher, member of education staff or volunteer is in a position of power or influence over a student or student by virtue of the work or nature of the activity being undertaken. Section 5 of this Guidance gives advice about the principles in a relationship of trust.

1 Guidance for all Academies, colleges and educational establishments

- 1.1 This guidance has been agreed and is promulgated by representatives of the local education authorities and the six teacher organisations in England and Wales. The guidelines are based on the Home Office Guidance “Caring for young people and the vulnerable” published in October 1999. This model guidance is intended to inform the development of guidance for teachers and others working in education to be agreed locally. Where relevant procedures and codes are already operative, this guidance can be used to inform their review or to supplement them, as appropriate.
- 1.2 The Sexual Offences (Amendment) Act 2000 establishes a criminal offence of the abuse of trust, affecting teachers and others who are in relationship of trust with 16-18 year olds. This guidance will be relevant in the context of that legislation, as well as standing in its own right.
- 1.3 This guidance explains the circumstances in which an abuse of trust would arise and sets out basic principles surrounding the issue. Teachers, education staff and volunteers need to be clear about what kind of behaviour is acceptable and that which is not. Academies, colleges and educational establishments should have statements, developed at local level, which give guidance to teachers, education staff and volunteers about the kind of behaviour which is unacceptable and the circumstances which should be avoided in order to limit complaints against teachers of the abuse of trust and/or allegations of physical or sexual abuse. This guidance should be dovetailed with such local codes. (See Appendix 3 of this section.)
- 1.4 The guidance is designed to apply to all staff in Academies, colleges and other educational establishments. Local reviews will need to clarify any particular matters for groups such as non-Academy based staff and short notice teachers.
- 1.5 Volunteers undertake unpaid work at Academies, colleges and off-site, on tasks ranging from help with reading, out-of-Academy learning, and residential off-site visits. This guidance is intended to include all such volunteers. Again, local guidance will need to address any specific issues according to local circumstances.

2 Aim of the Guidance

- 2.1 The guidance is aimed at helping Academies and colleges provide safeguards and prevent abuses of trust involving some form of sexual activity.
- 2.2 The guidance is aimed at protecting both those in a position of trust: teachers, other education staff and volunteers and those for whom they are responsible: students and students. Those in a position of trust carry the responsibility of ensuring that they do not abuse their position or put themselves in a position where allegations of abuse of trust, whether justified or unfounded, could be made.

3 Scope of the Guidance

- 3.1 The guidance is intended to protect young people in Academies and colleges who are over the age of consent but under 18 years of age. The guidance is also intended to protect vulnerable adults who are in full-time education. The guidance applies where a relationship of trust exists between a young person or vulnerable adult and his or her teacher, other member of education staff or volunteer.
- 3.2 The Home Office guidance points out that, although young people of 16 or 17 can legally consent to some types of sexual activity, they may be still relatively immature emotionally. In many areas of the law, for example the right to vote or the provisions of the Children Act 1989, they are still classed as children. Teachers, other education staff and volunteers have to recognise this vulnerability and ensure it is not exploited.
- 3.3 The Home Office guidance further points out that there is no precise definition of a vulnerable adult and adults over the age of 18 should be seen as fully competent and able to make their own decisions whatever their age or any disability they may have (except where legally deemed incapable of consent by reason of mental incapacity). Nevertheless, within the education service, there are relationships between vulnerable adults and their carers and teachers, based on authority and trust, where any sexual relationship would be unacceptable while the professional relationship continues. Examples of these would be education provided in colleges for adults with learning disabilities, as part of psychiatric care, residential care, and in detention settings of all kinds. Local guidance will need particularly to address specific local examples of such circumstances.

4 Principle of equality

- 4.1 The principles behind the guidance apply irrespective of sexual orientation; neither homosexual nor heterosexual relationships are acceptable within a position of trust. The principles apply equally to all without regard to gender, race, religion, sexual orientation or disability. This is an area where it is very important to avoid sexual or other stereotyping. In addition, it is important to recognise that women as well as men may abuse a position of trust.

5 A relationship of trust

- 5.1 A relationship of trust, for the purposes of this Guidance, is one where a teacher, member of education staff or a volunteer is in a position of power or influence over a student or student by virtue of the work or nature of the activity being undertaken. Although all relationships between teachers and their students are relationships of trust, this guidance is aimed at relationships of trust between teachers, education staff and those students or students in circumstances described in (3) above.
- 5.2 A relationship of trust must not be distorted by fear or favour and those in positions of trust must exercise responsibility as consequence of the power they have over those they care for. Where a relationship of trust exists, allowing a relationship to develop in way that might lead to a sexual relationship is wrong. A sexual relationship will be intrinsically unequal within a relationship of trust and is therefore unacceptable. It is also inappropriate since the professional relationship of trust would be altered.
- 5.3 This guidance should not be interpreted to mean that no genuine relationship can start between two people within a relationship of trust. But given the inequality at the heart of a relationship of trust, the relationship of trust should be ended before any sexual relationship develops.
- 5.4 This guidance should not be interpreted to mean that all forms of physical or close contact with students and students should be avoided, in order to avoid misplaced allegations. The guidance is concerned with avoiding sexual activity in a relationship of trust. A test of that would be what a reasonable person would consider to be sexual in all the circumstances. The Department for Education and Employment already gives guidance on physical contact with students in Circular 10/95 and on restraint in Circular 10/98, both of which give examples of circumstances where physical contact is appropriate.

6 Procedural issues

- 6.1 Procedures determined locally should be in place to ensure that Academies and colleges and those who work in them know what course of action to follow if an abuse of trust is reported or suspected. There are national procedural guidelines which have been agreed and promulgated by representatives of the local education authorities and the six teacher organisations which were developed for dealing with allegations of physical or sexual abuse. These guidelines are also recommended as suitable for dealing with allegations of abuse of trust and are appended to DfEE Circular 10/95. The guidelines are designed to protect young people from abuse and contain safeguards to protect those maliciously, falsely or mistakenly suspected or accused.

7 Seeking advice in circumstances where concerns arise

- 7.1 This section is intended to give guidance to individual teachers, education staff and volunteers who have concerns about circumstances which could represent an abuse of trust. The

procedures to be followed where there is an allegation of an abuse of trust are those referred to in 6.1 above.

- 7.2 It is important that, in Academies a culture of openness should be fostered in which teachers, support staff and volunteers feel able to raise issues of concern to them and that their duty to do so in terms of child protection is recognised. Individuals who make public interest disclosures will have the protection of the relevant legislation.
- 7.3 Further, it is important to recognise that a variety of circumstances can arise, including a sexual relationship at one end of the scale, through close friendships, to, at the other end of the scale, an innocent situation which has been entirely misconstrued. The advice set out below applies to all of these, although the action required to respond to each set of circumstances will vary considerably. Teachers, support staff and volunteers should take steps to minimise the risk of circumstances being misconstrued or misunderstood.
- 7.4 The primary aim of raising any issue of concern must be to help to prevent a situation developing which, if it does, is likely to have a detrimental effect on the young person involved and potentially serious outcomes in terms of disciplinary action, termination of employment for a teacher or member of support staff and possibly barring from further work with children.
- 7.5 Certain general principles apply to any situation involving a potential abuse of trust, as they do in any circumstances where there may be a child protection issue. A teacher, member of support staff, or volunteer with concerns about any situation must record and report that situation and seek professional advice. Contemporaneous recording and reporting to a head of department, other line manager, Head teacher or other nominated person will avoid circumstances being misconstrued and ensure that the situation is responded to appropriately. Contemporaneous recording and reporting the facts of the situation will also assist in responding to a subsequent complaint from any source. Assistance can be sought from the member of staff's trade union or professional association. Local Education Authorities should ensure that there is a senior nominated officer available to give advice in these circumstances. These principles apply to all of the possible scenarios described below.
- 7.6 If a teacher or member of support staff or volunteer is concerned that he or she might be developing a relationship with a student or vulnerable adult which could have the potential to represent an abuse of trust, the first advice must be to ensure that the relationship does not develop further. It can be particularly important in this context to note the advice already given above, that teachers and education staff should take steps to minimise risk and to avoid situations which might be misconstrued.
- 7.7 A teacher or member of support staff who needs advice about what might be a developing relationship should contact his or her County trade union or professional association. Professional advice should also be available on a confidential basis from the teacher's head of department, other line manager or Headteacher.

- 7.8 If a teacher or member of education staff is concerned that a student or vulnerable adult is becoming attracted to him or her or that there is a developing attachment or dependency, the teacher must record and report the situation and seek professional advice, in accordance with 7.5.
- 7.9 Similarly, if a teacher, member of support staff or volunteer is concerned that his or her actions or words have been misunderstood or misconstrued by a student or vulnerable adult, or circumstances arise such that an abuse of trust might be wrongly suspected by others, the advice in 7.5 should be followed as to recording, reporting and seeking advice on the appropriate response to the particular set of circumstances.
- 7.10 If a teacher, member of education staff or volunteer is concerned about the apparent development of relationship by another member of staff or volunteer, or receives a report from a student about such a relationship, it is again important to seek advice from the sources already described. The procedures referred to in 6.1 include advice on reporting and responding to such situations.

APPENDIX 4

**GUIDANCE ABOUT CONDUCT FOR STAFF, VOLUNTEERS, GOVERNORS, ETC
WHOSE WORK BRINGS THEM INTO CONTACT WITH YOUNG PEOPLE**

Please see the Bridgwater College Trust's Code of Conduct Policy