



EMMANUEL SCHOOLS FOUNDATION

Statement of Procedures for Dealing with Allegations of Abuse against Staff



Last Reviewed : February 2019
Approved : August 2019
Next Review : September 2020

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Statement of Procedures for Dealing with Allegations of Abuse against Staff

1. Introduction

Emmanuel Schools Foundation (“ESF”) takes its responsibility of care for its students seriously. ESF recognises that any possibility that a member of staff may have harmed 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. As a Foundation with a distinctive Christian ethos, our key drivers are mutual respect, understanding right from wrong, the need for the rule of law and tolerance; these are reflected in our core values of honourable purpose, humility, compassion, integrity, accountability, courage and determination.

2. The Law

The framework for managing cases of allegations of abuse against people who work with children is set out in ‘Working Together to Safeguard Children’: A guide to inter-agency working to safeguard and promote the welfare of children which provides an overview of how allegations should be handled. It is relevant for the purposes of s.157 and s.175 of the Education Act 2002.

Other legislation:

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

3. Initial Allegation made to ESF or school

Any allegation of abuse by a member of staff towards a student must be reported to the Principal. Should the initial allegation first be made to any other member of staff then that member of staff must either request that the person raising the allegation report it to the Principal or, if that is not possible, pass details of the allegation to the Principal themselves immediately.

Should the allegation be made against the Principal then this should be brought to the attention of the Chair of Governors immediately.

Should the allegation meet any of the following criteria, and if the allegation is not blatantly false, then the Principal should report the allegation to the Local Authority Designated Officer the same day that the allegation is received: A teacher or member of staff (including a volunteer) in 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

4. Initial Consideration

The Principal 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 Principal should not investigate the allegation at this stage but should take necessary and appropriate action to ensure children's safety and welfare whilst giving due consideration in determining actions to other factors (e.g. risk of jeopardising an investigation; risk to reputation of a member of staff – also see Section 7). The discussion will also consider whether there is evidence or information that establishes that the allegation is false or unfounded. Where there is reasonable a basis to believe that an allegation may be of substance, then the principles of the Foundation's Disciplinary Policy shall also apply (see the Employment Handbook)

If there is cause to suspect that a child is suffering, or is likely to suffer significant harm, the Local Authority Designated Officer will immediately refer to Children's Social Care and ask for a strategy discussion in accordance with Working Together to Safeguard Children to be convened straight away. In those circumstances the strategy discussion should include the Local Authority Designated Officer and the Principal.

If there is not cause to suspect that "significant harm" is an issue, but a criminal offence might have been committed, the Local Authority Designated Officer should immediately inform the police and convene a similar discussion to decide whether a police investigation is needed. That discussion will also involve the School and any other agencies involved with the child.

5. Action Following Initial Consideration

Where the initial consideration determines that the allegation does not involve a possible criminal offence it will be for the Principal to deal with. Where the Principal determines that the nature of the allegation does warrant formal disciplinary action under the Foundation Disciplinary Procedure, the Principal should institute appropriate informal action within three working days.

Where the Principal determines that informal action is inappropriate, the formal disciplinary procedure should be invoked; prior to notifying the individual, the LADO should be consulted regarding the appointment of an appropriate Investigating Officer. The Principal should consult the LADO, and HR with regards to excluding the individual from the workplace for the duration of the investigation. However, it remains a matter for the Principal and the Foundation in the context of the Disciplinary Policy to determine whether an individual should be suspended in this way. Where a suspension is considered appropriate, it shall not be considered a disciplinary measure and the individual will be paid in full for time so spent away from work.

The investigating officer should aim to provide a report to the Principal within 10 working days.

On receipt of the report of the investigation, the Principal and Chair of Governors should consult the Local Authority Designated Officer and decide whether a disciplinary hearing is needed within two working days. If a hearing is needed it should be held within 15 working days of receiving the report; arrangements for the hearing will be made under the auspices of the Disciplinary Procedure.

In any case in which Children's Social Care has undertaken enquiries to determine whether the child or children are in need of protection, the Principal and Chair of Governors should take

account of any relevant information obtained in the course of those enquiries when considering disciplinary action.

The Local Authority Designated Officer should continue to liaise with the School to monitor progress of the case and provide advice or support when required or requested.

6. Cases Where a Crime May Have Been Committed

If there is no cause to suspect that 'significant harm' is an issue, but a criminal offence might have been committed, the Local Authority Designated Officer should immediately inform the police and convene a similar discussion to decide whether a police investigation is needed. That discussion should also involve the School.

Where the involvement of Children's Social Work Services is not required as the student is not assessed to be a risk of 'significant harm' but a police investigation continues, the Local Authority Designated Officer should agree with the police, the School and any other agency involved with the child the nature of the allegation and how this must be addressed.

This joint evaluation discussion must take place within one working day of the referral and must consider how to progress enquiries; e.g., should a criminal process, parallel with a disciplinary process, or whether disciplinary action needs to be suspended until police enquiries/prosecution is/are completed? It is essential that HR advice is taken at by the Principal at this stage.

These investigations must be reviewed by the police no later than four weeks after the joint evaluation discussion, and thereafter at fortnightly or monthly intervals.

If the police and/or the Crown Prosecution Service (CPS) decide not to charge the individual with an offence, or decide to administer a caution, or the person is acquitted by a court, the police should pass all information they have which may be relevant to a disciplinary case to the School without delay. In those circumstances, the Principal should deal with the case in consultation with the Local Authority Designated Officer and having consulted with HR.

If the person is convicted of an offence, the police should also inform the employer straight away so that appropriate action can be taken.

7. Allegations Which Are Likely to Necessitate an Immediate Referral for Child Protection

The following situations will require immediate referral to child protection:

- Where the student has suffered, is suffering, or is likely to suffer significant harm;
- Where the student alleges that a criminal offence has been committed; and/or
- Any allegation of a sexual nature.

The Principal should be aware that some other complaints may also be regarded as child protection issues, and therefore each complaint should be carefully considered in consultation with the Local Authority Designated Officer before taking any action.

Where allegations of the above are referred to Children's Services, subsequent action will be in accordance with the Local Safeguarding Children Board procedures.

8. Suspension of Employment of Staff

The possible risk of harm to children posed by an accused person needs to be effectively evaluated and managed in respect of the child(ren) involved in the allegations. In some cases that will require the school to consider suspending the person until the case is resolved. Suspension must not be an automatic response when an allegation is reported. If the school is concerned about the welfare of other children in the community or the person's family, those concerns should be reported to the Local Authority Designated Officer or the police, but suspension is highly unlikely to be justified on the basis of such concerns alone.

Suspension should only be considered in a case where there is cause to suspect that a child or other children at the School is or are at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal. However, a person should not be suspended automatically, or without careful thought being given to the particular circumstances of the case.

The school must consider carefully whether the circumstances of the case warrant a person being suspended from contact with children at the School until the allegation is resolved, and should seek advice from the Emmanuel Schools Foundation Head of HR. The school should also consider whether the result that would be achieved by suspension could be obtained by alternative arrangements. For example, redeployment so that the individual does not have direct contact with the child concerned or providing an assistant to be present when the individual has contact with the children. This allows time for an informed decision regarding the suspension and possibly reducing the initial impact of the allegation. This will, however, depend upon the nature of the allegation. The school should consider the potential permanent professional reputational damage to the person that can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended.

Where it has been deemed appropriate to suspend the person, written confirmation should be dispatched within one working day, giving the reasons for the suspension. The person should be provided at that point details of a named contact, to whom they may remain in contact and ask questions of within the organisation.

Local authority children's social care services or the police cannot require the school to suspend a member of staff or a volunteer, although the school should give appropriate weight to their advice. The power to suspend is vested in the Principal or the governing body, who are the employers of staff at the school. However, where a strategy discussion or initial evaluation concludes that there should be enquires by the local authority social care services and/or an investigation by the police, the Local Authority Designated Officer should canvass the police and the local authority children's social care services for views about whether the accused member of staff needs to be suspended from contact with children to inform the School's consideration of suspension.

A risk assessment should be carried out for each individual case to determine whether the member of the staff should be suspended. The assessment will take into account the context of the allegation, background information in relation to the member of staff, and any outcome following the strategy meeting. It should also take into account whether a temporary transfer or period of paid leave is appropriate as an alternative to suspension. The assessment must be recorded and a copy kept on file.

9. Strategy Meeting

A strategy meeting will be convened within one working day of the referral being made and chaired by the Child Protection and Review Unit. The Local Authority Designated Officer and all relevant personnel including, where appropriate, the Principal and the Emmanuel Schools Foundation's Head of HR, should attend this meeting in order to share information and participate in the planning of any enquires. The strategy meeting will be conducted in accordance with Local Safeguarding Children Board procedures.

The purpose is to:

- Consider the risk to the student and other students;
- Share all relevant information about the person who is the subject of the allegation and about the alleged victim;
- Determine the need for investigation and by whom;
- Plan the investigation / enquiries and set timescales for tasks to be undertaken;
- Consider whether any other children are affected by the allegations e.g. the person's own children, grandchildren or other children in the agency setting such as children placed with foster carers, child-minders, a youth club;
- Ensure that the person who is the subject of the allegation is kept informed and supported;
- Decide how regular information and support will be provided to the child and family and by whom;
- Plan all interviews and agree who should undertake them so that there is no confusion between a criminal investigation (Section 47 Enquiry) and disciplinary processes;
- Consider the need to inform relevant parties;
- Jointly consider how to manage any media interest;
- Consider whether the circumstances require the person who is subject to the allegation to be suspended from contact with students. This may change as the investigation progresses and should be reviewed regularly; and/or
- If the allegation is against a governor, a temporary member of staff or a supply teacher, the appropriate course of action needs to be considered.

10. Attendance

Attendance will be determined by the School procedures but will usually include representatives from Children's Services. The member of staff who is the subject of the allegation will not be invited to attend the meeting; however, the strategy meeting will agree when and how the member of staff will be informed. The minutes of the strategy meeting will be circulated by the Chairman of the meeting to relevant parties.

11. Communication following the strategy meeting

The following should be informed of the outcome of the investigation:

- The student making the allegation and their parent/carer of the likely course of action. Also informing them that the matter is confidential and must not be discussed.
- The member of staff against whom the allegation has been made. This should include the likely course of action. A record should be kept on the individual's personal file.
- The Chair of Governors should be informed of the likely course of action.

Subsequent strategy meetings should be held fortnightly, or at a minimum, monthly to review progress.

12. Monitoring Progress

The Local Authority Designated Officer should regularly monitor the progress of cases, either via review strategy meetings, or by liaising with the police and/or Children's Social Worker Services colleagues or the School, as appropriate. Reviews should be conducted at fortnightly or monthly intervals depending on the complexity of the case.

13. Referral to DBS

If on conclusion of the case the School ceases to use the person's services, or the person ceases to provide his or her services, the School should consult the Local Authority Designated Officer about whether a referral to the Disclosure & Barring Service (DBS) is required. If a referral is appropriate the report should be made within one month.

14. Keeping Records

It is important that a clear and comprehensive record of any allegation is made even if police/disciplinary action is not taken or proven. This should include details of the allegation, how the allegation was followed up and resolved and a note of any action taken, including any sanctions imposed. The record should be kept on the member of staff's personal file. The purpose of this record is to enable accurate information to be given in response to any future reference request if the individual leaves the School. It is also important that accurate and detailed information is held in the event that the Disclosure and Barring Service (DBS) makes requests for further information. This information given to the DBS is referred due to the nature of the allegation. A comprehensive record of all allegations will provide clarification in cases where a future DBS disclosure reveals information from the police about an allegation which did not result in a criminal conviction. The record should be retained until normal retirement age or for ten years if that is a longer period of time.

15. Confidentiality

Confidentiality should be maintained when an allegation is made. However there may be a need to share information with relevant agencies, for example at a strategy meeting on a need to know basis. Any enquiries from the press should be directed to the Chair of Governors, unless it is a freedom of information or data protection request in which case the Emmanuel Schools Foundation Head of HR, Data Protection Officer or legal representative should be contacted.

16. Action to be Taken in Respect of False Allegations

If an allegation made by a student is proven to be false and/or malicious, action should be taken to determine whether the person who made the allegation is in need of services or may have been abused by someone else. In the case of a student deliberately inventing or making a malicious allegation, the Principal should consider taking action in accordance with the Behaviour and Discipline Policy. If it is clear to the Principal and Local Authority Designated Officer that the allegation is demonstrably false or unfounded, the member of staff should be informed orally and in writing of the allegation, that it is without foundation and that no further action will be taken. Where appropriate, and if requested, support should be offered, which could include occupational

health and counselling services. If an allegation made by a member of staff is proved to be false and/or malicious, an investigation should take place in accordance with the Foundation's Discipline Policy. The police may also consider taking action against the individual making the allegation.

17. Learning Lessons

Where an allegation has been made against a member of staff, lessons can be learned whether the allegations are proven or not. At the conclusion of a case, relevant parties should discuss what can be learned and therefore lead to improved practice, either to the School procedures or to help prevent similar events in the future. The Local Authority Designated Officer and the Principal should review the case.

18. Information Sharing

In a strategy meeting or initial evaluation of the case the agencies concerned must share all relevant information they have about the person who is the subject of an allegation, and about the alleged victim. Staff attending the strategy meeting should be prepared with the appropriate information, e.g., full name, address, when a DBS check was completed, start date, involvement in youth activities, children of their own and any other information that could be helpful. As per procedures, the police should obtain consent from the individuals concerned to share the statements and evidence they obtain with the School for disciplinary purposes. This should be done as their investigation proceeds rather than after it has concluded. This will enable the police to share relevant information, without delay, at the conclusion of their investigation or any court case. Children's Social Care should adopt a similar procedure when making enquiries to determine whether the student named in the allegation is 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 School without delay.

19. Resignations and 'Settlement Agreements'

The fact that a person tenders his or her resignation, or ceases to provide their services, will not prevent an allegation being followed up in accordance with these procedures. 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 co-operate with the process. Wherever possible the person 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 regarded as substantiated on the basis of all the information available, should continue even if that cannot be done or the person does not co-operate. 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.

By the same token, 'settlement agreements', by which a person agrees to resign, if the school agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, will not be used in these cases except where investigations have concluded that the allegations are false, malicious, unfounded or unsubstantiated. In any event, such an agreement will not prevent a thorough police investigation where that is appropriate. Nor can it override the statutory duty to make a referral to the DBS or to the National College of Teacher and Leadership where circumstances require that.

20. Those Involved in Providing Support

Supporting the Employee

ESF has a duty of care to their employees. Will take all reasonably practicable steps to manage and minimise the stress inherent in the allegations and disciplinary process. Support for the individual is key to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by the local authority social care services or the police. The individual should be advised to contact their trade union representative, if they have one, or provided a named colleague for support. They could also be given access to welfare counselling or medical advice.

The School 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. That may include the support to occupational health professionals. 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 of current work related issues. Social contact with colleagues and friends must not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

Supporting Parents

Parents or carers of a child or children involved should be told about the allegation as soon as possible if they do not already know of it. However, where a strategy discussion is required, or police or local authority children's social care services need to be involved, the Principal should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents. They should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but the parents or carers of the child should be told the outcome in confidence. In deciding what information to disclose, careful consideration should be given to the provisions of the Data Protection Act 1998, the law of confidence and, where relevant, the Human Rights Act 1998. The ESF Data Protection Policy should also be referred to.

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

21. Policy Review

This policy will be kept under review in order to keep it in line with relevant legislation and modifications authorised in line with the authorisation and issue process detailed below.

This Policy should also be read in conjunction with the Foundation's disciplinary procedures.

Appendix 1 - Definitions

Significant Harm

This is the threshold where compulsory Social Care intervention must take place. This was introduced by the Children Act 1989 and is defined by the Law Commission as: *“Harm as a concept should be taken to include not only ill-treatment (including sexual abuse and forms of ill treatment that are not physical) but also the impairment of physical or mental health and the impairment of physical, emotional, social or behaviour development”*.

Abuse

Abuse can consist of physical, sexual, neglect and emotional. The definitions of abuse are below.

Types of abuse:

1. **Physical abuse** includes hitting, slapping, pushing, kicking, misuse of medication, restraint or inappropriate sanctions.
2. **Sexual abuse** includes rape, sexual activities to which a child has not/could not consent or was pressurised into consenting. Sexual activities could include physical contact or non-physical contact. Non-physical contact could be encouraging children/young people to watch sexual activities or behave in a sexually inappropriate way.
3. **Neglect** is the persistent failure to meet a child/young person’s basic physical or psychological needs, likely to result in the serious impairment of the child/young person’s health or development. It includes a failure to provide access to appropriate health, social care or educational services or withholding the necessities of life such as medication, adequate nutrition, clothing, shelter and heating.
4. **Emotional abuse** is the persistent emotional maltreatment of a child/young person. This could have a severe and adverse effect on a child’s/young person’s development. This may involve conveying to the child/young person that they are worthless, or unloved, inadequate or valued only in so far as they meet the needs of another person. It also includes humiliation, blaming, controlling, intimidation, isolation or withdrawal from services or supportive networks. Some level of emotional abuse is involved in all types of maltreatment of a child/young person, although it may occur alone.

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.

Appendix 2 - 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 you have:

- harmed a student or put a child at risk of harm, or
- committed a criminal act toward a student or child, or
- behaved in a way that raises concern about your suitability to work with children or young people

1. Initial Action

As soon as possible after the allegation is made, the Principal should consult the Local Authority Designated Officer to discuss the next action, taking advice from Social Care and the police as needed. The police may advise that you are not told about the allegation immediately.

The Principal's decision in consultation with the Local Authority Designated Officer will be one, or a combination, of the following:

- a) The student 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 which requires referral to Social Care and the police.
- c) The allegation represents poor or inappropriate behaviour which should be considered under the School disciplinary and/or capability procedures, including referral if appropriate to the School occupational health advisor.
- d) The allegation is clearly and demonstrably without foundation and no further action will be taken.

If the conclusion of the initial discussions are a) or b) a strategy discussion should take place involving the police, Social Care, the Principal, the Local Authority Designated Officer and the Emmanuel Schools Foundations Head of HR. You will not be invited. The discussion will focus on the needs of the student(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 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.

2. Types of Possible Investigation

- Child protection enquiries by Social Care
- Criminal investigation by the 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.

3. Suspension

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

- a student may be at risk
- the allegations are so serious that dismissal for gross misconduct is possible
- suspension is deemed advisable to ensure that the investigation can 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 student concerned, his/her parent/carer, the person making the allegation, your manager, the Principal, the Emmanuel Schools Foundation Head of HR, the Local Authority Designated Officer 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.

4. 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 progress of your case;
- given a team contact, if you are suspended, who will update you about normal organisation activities. Social contact with colleagues will not normally be precluded unless, in the reasonable opinion of the Principal it is considered 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; and/or
- 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.