

**MANAGING ALLEGATIONS OF  
A SAFEGUARDING NATURE  
PROCEDURE**

## Managing Allegations of a Safeguarding Nature Procedure

**Policy Owner:** Resources Committee  
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 Applicable to students: Yes  
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CMT	No	
Unions	Yes	
Students	No	
Employees	No	
Employers/Stakeholders	No	

### Any Associated Documentation, for Reference:

Safeguarding, Child Protection and Prevent Policy, Keeping Children Safe in Education, Staff Behaviour Code, Disciplinary Policy and Procedure, Safeguarding Harm Test, DBS Referral Regulations

**ELT SIGN-OFF:** Iain Stott – Vice Principal Corporate Services



## MANAGING ALLEGATIONS OF A SAFEGUARDING NATURE PROCEDURE

### 1. Policy Statement

- 1.1 The Department for Education (DfE) produces statutory guidance known as Keeping Children Safe in Education (KCSIE) issued under Section 175 of the Education Act 2002, the Education (Independent School Standards) Regulations 2014, the Non-Maintained Special Schools (England) Regulations 2015, and the Education and Training (Welfare of Children) Act 2021. Schools and Colleges in England must have regard to it when carrying out their duties to safeguard and promote the welfare of children. For the purposes of the guidance children includes everyone under the age of 18, in the procedure they are referred to as young people. The College has also included adults, who might be deemed vulnerable because of their circumstances in the scope of this procedure. KCSIE is updated on an annual basis.
- 1.2 Part Four of KCSIE deals with allegations made against/concerns raised in relation to any authorised personnel working with Preston College students who are under the age of 18 years. The guidance requires the College to have procedures for dealing with concerns and/ or allegations against those working in or on behalf of the College in a paid or unpaid capacity. This includes volunteers and contractors.
- 1.3 Part Four of KCSIE is split into two sections:
  - a. Section One deals with concerns / allegations that may meet the harm threshold; and
  - b. Section Two deals with concerns / allegations that do not meet the harm threshold and are referred to in the guidance as 'low-level concerns'.
- 1.4 Preston College recognises its statutory and moral duty to promote and secure the welfare of its students; adopting a risk based approach to safeguarding, which assures the highest possible level of safety for students and the most positive impact on learning.
- 1.5 This procedure provides an outline of the values and principles the College will follow in performing its statutory duty under Part Four of KCSIE.
- 1.6 The fundamental values and principles contained in this procedure for managing concerns or allegations of abuse made against staff who work with children, young people or vulnerable adults include:
  - a. that the welfare of the young person is paramount;
  - b. to minimise the potential for a protracted risk of harm to the young person by the alleged perpetrator;
  - c. that the Designated Safeguarding Lead (DSL) is responsible for ensuring that the young person is not at risk and will take a lead when concerns or allegations of a safeguarding nature are first reported;
  - d. the DSL is responsible for referring cases of suspected abuse to the local authority children's social care through the Local Authority Designated Officer (LADO);

- e. the DSL will undertake the harm test and where there is cause to suspect suffering or a likelihood of suffering the DSL will request a strategy meeting involving the police and/or children's social care through the LADO;
- f. the DSL will inform the Director of Human Resources (DoHR) about the matter once steps have been put in place to minimise continued harm to the child/ young person;
- g. the DoHR will take on the role of Case Manager and be the point of contact with LADO in relation to the alleged perpetrator;
- h. the DoHR will appoint an Investigating Officer;
- i. the DoHR will assign a member of the Human Resources Department to support the person subject to the concerns/ allegation;
- j. where it is clear that an investigation by the police or children's social care is unnecessary, or the strategy discussion or initial assessment decides that is the case, the LADO should discuss the next steps with the DoHR as the Case Manager;
- k. where the individual is not directly employed by the College, the DoHR as Case Manager will act as the point of liaison between the employing agency, LADO, police and/ or children's social care;
- l. suspension should not be an automatic response when a concern or allegation is reported;
- m. the College has a duty of care to both the young person and the individual against whom the concerns/ allegations have been made;
- n. the College will not cease investigations if the alleged perpetrator leaves or ceases to provide their services;
- o. the College will make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered;
- p. the DoHR shall take advice from the LADO, police and children's social care to agree who needs to know and the exact information that can be shared;
- q. the DoHR will take advice from the LADO, police and children's social care to agree how to manage speculation, leaks and gossip;
- r. the College will support the return to work of an individual against whom unfounded, unsubstantiated, malicious or false allegations have been made;
- s. Where the allegation/ concern is founded, the DoHR will make a referral to the DBS for consideration of whether inclusion on the barred list is required; and where relevant, make a referral to the Teaching Regulations Agency.

1.7 In implementing this procedure, the College will ensure that any personal data relating to the application of this procedure will be obtained, processed and destroyed in line with the principles outlined in the UK General Data Protection Regulations (GDPR) and supplementary enacting Data Protection Legislation. The College is committed to being transparent about how it collects and processes the personal data of its students, employees, visitors and other stakeholders to meet its data protection obligations. The College will ensure all processing is lawful, fair and transparent and individuals are informed of the legal basis for processing their data. Further information relating to the College's compliance of the UK GDPR can be found in the College's Data Protection Policy.

## **2. Scope**

2.1 The underpinning values and principles of this procedure apply to all College employees, casual workers, agency workers, self-employed, volunteers and contractors working in a paid or unpaid capacity regardless of their length of service or hours worked.

## **3. Purpose**

3.1 The purpose of this procedure is to outline the duty of care the College has to its students and employees in the following circumstances:

- Where a staff member whether paid or unpaid may have behaved in a way that has harmed a young person / vulnerable adult, or may have harmed a young person / vulnerable adult;
- Where a staff member has possibly committed a criminal offence against or related to a young person/vulnerable adult; or
- Where a member of staff has behaved towards a young person/vulnerable adult in a way that indicates that they would pose a risk of harm if they work regularly or closely with young people/vulnerable adults;
- Where a staff member has behaved or may have behaved in a way that indicates they may not be suitable to work with young people/vulnerable adults.

3.2 The bullet points in 3.1 may include behaviour which happens outside of College, which may make a staff member unsuitable to work with young people/vulnerable adults.

3.3 The College will ensure that effective support is provided for anyone facing an allegation. The allegation will be dealt with quickly, in a fair and consistent way that provides effective protection for the young person / vulnerable adult as well as supporting the individual who is the subject of the allegation. It will also make every effort to maintain confidentiality and avoid any unwanted publicity whilst an allegation is being investigated or considered.

## **4. Initial Assessment**

4.1 If a member of staff has a concern about another member of staff's conduct, or they receive an allegation of abuse from a student, it is extremely important that this information is kept confidential and not discussed with other work colleagues, including the Human Resources Department.

4.2 Whenever an individual discloses a situation of abuse, staff have a legal obligation to pass this information on to the Designated Safeguarding Lead (DSL). If the DSL is not available at the time, the information should be passed to the Strategic Lead for Safeguarding (SLS).

4.3 If a member of staff has any concerns regarding student peer on peer sexual violence and sexual harassment that has happened inside or outside of College, or online, staff have a legal obligation to pass this information on to the Designated Safeguarding Lead or to one of the safeguarding deputies.

- 4.4 Staff are required to record the factual details of what they have been told (statements must be written) and forward this to the DSL without delay. No copies should be made of this statement.
- 4.5 The DSL will make an initial assessment of the allegation and decide whether or not it meets the criteria in section 4.3. If it does not, the case should be considered under the College's Disciplinary Policy and Procedure, as appropriate and the matter referred to the Director of Human Resources.
- 4.6 The initial assessment should consider the following points:
- The seriousness and nature of the allegation;
  - The risk to the young person or vulnerable adult;
  - The risk to the member of staff concerned;
  - The consideration of suspension in accordance with the College's Disciplinary procedure.
- 4.7 Where the allegation is found to be false following an initial assessment, the case will be dismissed.
- 4.8 If appropriate following the initial assessment, the DSL will need to inform, the LADO (Local Authority Designated Officer) so that they can consult with police or Children's Social Care as appropriate.
- 4.9 The LADO should always be contacted whenever:
- A crime has (or may have) been committed;
  - The young person or vulnerable adult has suffered or is likely to suffer harm;
  - Uncertainty or lack of clarity about whether it is a safeguarding matter remains;
  - There are physical marks or injuries;
  - Allegations made are sexual in nature;
  - The potential safeguarding matter is brought to the organisation's attention by an 'outside' person or agency.

## **5. Safeguarding Enquiries**

- 5.1 Safeguarding enquiries by the LADO or the police take precedent over any internal disciplinary proceedings undertaken by the College. An internal investigation will continue as far as practically possible in case there is a need to refer to the DBS or if the allegations were potentially a criminal matter.
- 5.2 Where the allegation has been deemed not to be of a safeguarding nature by LADO, an internal investigation will continue as far as practically possible.
- 5.3 The police may act independently of the College particularly where the allegation is unconnected to the member of staff's professional life. The police may wish to interview other members of staff to enable them to gather the evidence or they may request equipment.

5.4 The College may be able to use the outcome of external agency enquiries as part of its own procedures.

## **6. Suspension of Staff**

6.1 Preston College will consider carefully whether the circumstances of a case warrant a staff member being suspended from contact with young people at the college or whether alternative arrangements can be put in place until the allegation is resolved. Where appropriate, options to avoid suspension will be considered.

6.2 If deemed necessary suspension may be carried out at any stage of the Investigation. Suspension is a neutral act and not a disciplinary sanction and any periods of suspension will be on full pay and regularly reviewed. The decision to suspend will not be taken lightly and all other alternative options will have been considered first e.g. a change of duties, temporary transfer to a different area. Full guidance is available in the College's Disciplinary Policy and Procedure.

6.3 Employees who are suspended, will have access to an HR contact who is not linked to the investigation. Support provided by the HR contact may include a referral to Occupational Health if deemed necessary. Confidential external support is also available via the Colleges counselling services, contact details will be provided to the employee.

6.4 The decision to suspend may only be taken by the Principal or their nominee or the Chair of the Board in relation to a Senior Post Holder.

6.5 Before taking the decision to suspend, the Principal or their nominee or the Chair will consider all other options available such as temporarily moving the employee into another area or role comparable with their substantive post and giving consideration to the individual's wellbeing and mental health.

6.6 Suspension of the staff member(s) will not be automatic. The Principal, in conjunction with Human Resources will need to consider:

- The details of the alleged incident;
- Whether a young person/vulnerable adult is at risk;
- Whether suspension is necessary for the good and efficient conduct of the investigation;
- Any relevant information obtained in the course of any initial enquiries;
- If the allegation warrants investigation by the police;
- The risks to the College, individuals and students;
- Consideration of alternatives to suspension;
- Consultation with LADO and/or police.

6.7 Where the Principal is of the view that an allegation may constitute serious or gross misconduct, the Principal may agree to the suspension of a member of staff from duty pending an investigation which may lead to a formal disciplinary hearing.

- 6.8 If suspension is recommended, A Suspending Manager will be appointed by Human Resources, which may sometimes be the Investigating Manager. The Suspension Manager in conjunction with the Human Resources Department will suspend the individual. Suspension is not a disciplinary sanction and this should be made clear to the employee at the suspension meeting and in the written notification of the suspension.
- 6.9 In respect of the Principal, or other Senior Post Holders, suspension can only be carried out by the Chair of the Governors (or in their absence, the Vice Chair).
- 6.10 The member of staff shall be informed that they are suspended from duty. Written confirmation of the suspension will either be provided at the meeting or sent as soon as possible after the event, the written notification will set out the grounds on which the decision to suspend has been taken. Written confirmation will normally be provided at the suspension meeting, otherwise this will be provided without unreasonable delay.
- 6.11 The suspension of any employee will be for as brief a period as is necessary and will be kept under regular review, the investigating manager or HR contact will keep the employee updated on the terms of the suspension. It will be lifted by the appropriate Investigating Manager once continued suspension is no longer necessary.
- 6.12 Whilst suspended an employee will be allowed to put forward a written submission to the Principal, or if a Senior Post Holder to the Chair of the Corporation Board, requesting that their suspension is lifted, a second written submission can only be put forward, if new information has come to light. The suspending manager will write a short report stating the reasons and consideration given for the suspension. The Principal or Chair of the Corporation Board will consider both written submissions and confirm the decision in writing.
- 6.13 Employees who are suspended will not be allowed into any areas of work or to contact College employees throughout the investigation unless authorisation has been received from the HR Department.
- 6.14 Employees who are suspended are allowed to contact their TU representative who may or may not be based on site, their HR contact or any immediate family members. However, to ensure a fair investigation, if the family member is also an employee of the College, that person may not discuss the matter with any other person.

## **7. INVESTIGATION**

- 7.1 Where a further disciplinary investigation is required to establish the facts, an investigating manager will be assigned
- 7.2 Where the allegation is made against the Senior Post Holder, reference needs to be made to Appendix 4 (Senior Post Holders) of the Disciplinary Procedure and the terms of reference for the Special Purposes Committee.
- 7.3 In any case where a disciplinary offence has occurred involving a Senior Post Holder the preliminary investigation shall be carried out by the Investigating Manager. In any case where a disciplinary offence may have occurred involving a Senior Post Holder the

Chair can appoint an Investigating Manager, which may be a person (or a group of persons, in which case the following references to a person or a member shall be construed in the plural) nominated by the Chair of the Board. Such a person might be a person external to the College or could be a member of the Corporation (other than a staff or student member). In that latter case the nominated member should normally not attend, as a member, any meeting of the Corporation or any of its Committees at which disciplinary action against the Senior Post Holder may be considered.

- 7.4 The Investigating Manager will aim to conduct the investigation and provide an investigation report without unreasonable delay.
- 7.5 Following the outcome of the investigation, the Principal or Investigating Manager will consult with the Director of HR who may also consult with LADO if required, to decide what appropriate action to take. Please refer to the Disciplinary Policy and Procedure for additional guidance.
- 7.6 Malicious or false allegations may be determined at the outcome of the investigation, by the investigating manager.
- 7.7 Substantiated, unfounded or unsubstantiated allegations may be determined at the conclusion of a disciplinary hearing.
- 7.8 The following definitions will be used when determining the outcome of allegation investigations:

**Substantiated;** there is sufficient evidence to prove<sup>1</sup> 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;

**Unfounded;** no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances.

**Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term therefore, does not imply guilt or innocence

## 8. Allegations without Foundation

- 8.1 False allegations may be indicative of problems of abuse elsewhere. A record should be kept and consideration given to a referral to the LADO in order that other agencies may act upon the information.
- 8.2 In consultation with HR, the Investigating Manager will:

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<sup>1</sup> For the purposes of this procedure, the definition of 'prove' is on the balance of probabilities.

- Write a formal report outlining the allegation and giving reasons for the conclusion that it had no foundation and confirming that the above action had been taken.
- Ensure that a formal response has been sent to the member of staff against whom the allegation is made without undue delay, orally and in writing, that no further disciplinary or safeguarding action will be taken.
- Ensure the parents / carers of the young person/vulnerable adult that the allegation has been made and of the outcome reached.
- Where the allegation was made by a young person/vulnerable adult, other than the alleged victim, consideration should be given to informing the parents/carers of that individual.
- In the case of a false allegation, all details will be removed from personal records.
- Cases in which an allegation was proven to be false, unsubstantiated or malicious will not be included in employer references.
- The person making malicious allegations made may be investigated through the College's Disciplinary Policies and Procedures
- In the case of a malicious allegation, the member of staff will have access to a Human Resources contact. Support provided by the HR contact may include a referral to Occupational Health.

## **9. Substantiated Allegations**

- 9.1 There is a legal requirement for the College to make a referral to the DBS where they think that an individual has engaged in conduct that harmed (or is likely to harm) a young person or vulnerable adult; or if a person otherwise poses a risk of harm to a young person or vulnerable adult.

## **10. Resignation During an Investigation**

- 10.1 There may be occasions where referrals are required to be made to the Disclosure and Barring Service when the employee leaves before the case has been heard. The individual will be informed prior to the referral being made and will have an opportunity to make representations prior to the referral being sent.