



The Belsteads School

Managing Allegations of Abuse Against Teachers and Staff Policy

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INTRODUCTION

The Belsteads School acknowledges its collective responsibility to safeguard and protect the welfare of children and young people in accordance with its statutory responsibility under Section 157 of the Education Act 2002, the Education (Independent School Standards) (England) Regulations and where appropriate under the Children Acts.

We recognise that it is possible for staff and volunteers to behave in a way that might cause harm to children and take seriously any allegation received. Such allegations should be referred immediately to the DSL who will first contact the Local Authority Designated Officer (LADO) to agree further action to be taken in respect of the student and staff member.

All staff need to be aware that it is a disciplinary offence not to report concerns about the conduct of a colleague that could place a student at risk. When in doubt – consult.

This Policy outlines procedures for the management of allegations of abuse against employees and volunteers, which might indicate that they are unsuitable to work with children / young people in their present position or in any capacity.

The procedures will be used in any case where it is alleged that a teacher or other member of staff or a volunteer at the school has:

- behaved towards a child or children in a way that has harmed 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 that they may harm them if they work regularly or closely with children.

KEY POINTS

It is essential that any allegation made against a member of staff or volunteer is dealt with fairly, quickly and consistently, in a way that provides effective protection for the student and at the same time supports the person who is the subject of the allegation.

HOW CONCERNS ARISE

Concerns about the possible abuse of students by staff will usually arise in one of two ways, either:

- a direct allegation by a student or a third party, for example a parent / carer
- an observation by a member of staff that the behaviour of a colleague is inappropriate or potentially or actually abusive.

In either case the concern must be recorded and reported to the DSL immediately.

As this is a statutory duty, we expect all members of staff in the school, where they have concerns, to report them in accordance with this policy.

INITIAL ACTION

The DSL will ensure that they have a full understanding of what is being alleged from the member of staff or third party, only speaking to the student if it is unavoidable or it is the student making the allegation.

No one in the school may investigate the incident by interviewing either those directly involved or any witnesses - to do so could prejudice a fair hearing at a later date.

The DSL will simply establish:

- an allegation has been made
- the general nature of the allegation
- when and where the incident is alleged to have occurred
- who was involved
- any other persons present

The matter will not be discussed with the person who is the subject of the allegation at this stage.

ROLES & RESPONSIBILITIES

The DSL will liaise with the Local Authority's Designated Officer (LADO) on all matters of concern which meet any of the following criteria.

It appears that the person has:

- Behaved in a way that has harmed a child, or may have harmed a child, or,
- Possibly committed a criminal offence against or related to a child, or,
- Behaved towards a child or children in a way that indicates that they may harm them if they work regularly or closely with students.

The Belsteads School will not attempt to manage allegations or concerns which meet any of the above criteria through other mechanisms such as the school Complaints Procedure or Disciplinary Procedures, unless written agreement to do so has been confirmed by the Local Authority Designated Officer for Child Protection.

Where further action is agreed:

- The DSL will inform the accused person about the allegation as soon as possible after consulting the LADO. They will be provided with as much information as possible at the time. However, where a strategy discussion is needed, or police or local authority's social care services need to be involved, the DSL will not do that until those agencies have been consulted, and have agreed what information can be disclosed to the person.
- The Belsteads School DSL/Headteacher/Proprietor will consider carefully whether the circumstances of a case warrant the member of staff being suspended from contact with students at the school until the allegation or concern is resolved.
- If the allegation is not demonstrably false or unfounded, and there is cause to suspect a student is suffering or is likely to suffer significant harm, a strategy discussion will be convened.

- If the allegation is about physical contact, the strategy discussion or initial evaluation with the police will take account of the fact that teachers and other school staff are entitled to use reasonable force to control or restrain students in certain circumstances, including dealing with disruptive behaviour.

Where it is clear that an investigation by the police or local authority children's social care services is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the LADO will discuss the next steps with the DSL.

In these circumstances the options open to The Belsteads School depend on the nature and circumstances of the allegation and the evidence and information available. Action will range from taking no further action to summary dismissal or a decision not to use the person's services in future.

In straightforward cases any investigation will normally be undertaken by a member of the Senior Management Team. However, in circumstances where the nature or complexity of the allegation dictates, the services of an independent investigator may be commissioned.

Allegations concerning staff not directly employed by the school

In some cases, The Belsteads School will need to consider an investigation in which normal disciplinary procedures do not apply, and may need to act jointly with another organisation.

This action will be necessary when, for example, an allegation is made against a supply teacher provided by an employment agency.

Although the school will not have a direct employment relationship with the individual, the school will cooperate in an investigation, and in reaching a decision about whether to continue to use the person's services.

SUPPORTING THOSE INVOLVED

The Belsteads School acknowledge their duty of care to employees. Procedures will ensure that wherever possible the stress inherent in the allegations and disciplinary process is managed and minimised. Support for the individual is key to fulfilling this duty.

The DSL will be the appointed person who will keep the accused member of staff informed of the progress of concerns or allegations as soon as possible. This will include an explanation of the likely course of action, unless there is an objection by the Children's Social care or Police.

Particular care will be taken when employees are suspended to ensure that they are kept informed of both the progress of their case and current work-related issues. Social contact with colleagues and friends will not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

Parents / carers / social worker (if applicable) of a student involved will be told about the allegation as soon as possible if they do not already know of it. However, where a strategy discussion is required, or police or Children's Social Care Services need to be involved, the DSL will not do so until those agencies have been consulted and have agreed what information can be disclosed.

They will also be kept informed about the progress of the case, and told the outcome in confidence where there is not a criminal prosecution, including the outcome of any disciplinary process.

In cases where a student may have suffered significant harm, or there may be a criminal prosecution, Children's Social Care Services, or the police as appropriate, will consider what support the student involved may need.

In deciding what information to disclose, The Belsteads School will give careful consideration to the provisions of the Data Protection Act 1998, the law of confidence and the Human Rights Act 1998.

CONFIDENTIALITY

Every effort will be made to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.

The Belsteads School will take advice from the LADO, police and Children's Social Care Services to agree the following:

- Who needs to know and, importantly, exactly what information can be shared;
- How to manage speculation, leaks and gossip;
- What if any information can be reasonably given to the wider community to reduce speculation; and
- How to manage press interest if and when it should arise.

The Belsteads School acknowledge the reporting restrictions introduced in the Education Act 2011 including preventing the publication of any material that may lead to the identification of the individual who has been accused.

RESIGNATIONS & 'SETTLEMENT / COMPROMISE AGREEMENTS'

The fact that a member of staff tenders his / her resignation, or ceases to provide their services, will not prevent an allegation being followed up in accordance with guidance.

The Belsteads School recognises that it is important that every effort is made to reach a conclusion in all cases of allegations including any in which the person concerned refuses to cooperate with the process.

Wherever possible the member of staff will be given a full opportunity to answer the allegation and make representations. 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 will continue even if that cannot be done or the person does not cooperate.

It is acknowledged that it may be difficult to reach a conclusion in the above 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.

So-called 'compromise 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 cases of refusal to co-operate or resignation before the person's notice period expires.

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 where circumstances require that.

RECORD KEEPING

The DSL will ensure:

- a clear and comprehensive summary of any allegations is recorded
- details of how the allegation was followed up and resolved
- 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 reference request if the individual leaves/ has left the organisation. It is also important that accurate and detailed information is given to the DBS if the individual is referred due to the nature of the allegation.

Accurate recording keeping will also provide clarification in cases where a future DBS check reveals information from the police about an allegation which did not result in a criminal conviction, and will help to prevent unnecessary re-investigation.

The record will be retained at least until the accused has reached retirement age or for a period of 10yrs from the date of the allegation if that is longer.

Details of allegations that are found to have been malicious will be removed from personnel records.

REFERENCES

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

TIMESCALES

It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations will be investigated as a priority so as to avoid any delay.

The time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation, but the following targets should be achieved in all but truly exceptional cases.

It is expected that 80 per cent of cases should be resolved within one month, 90 per cent within three months, and all but the most exceptional cases should be completed within 12 months.

For those cases where it is clear immediately that the allegation is unsubstantiated or malicious then it is expected that they should be resolved within **one week**.

Where the initial consideration decides that the allegation does not involve a possible criminal offence The Belsteads School will deal with it, although if there are concerns about child protection this will be discussed with the LADO. In such cases, if the nature of the allegation does not require formal disciplinary action, The Belsteads School will institute appropriate action within **3 working days**.

If a disciplinary hearing is required and can be held without further investigation, the hearing will be held within **15 working days**.

SUSPENSION

The Belsteads School will carefully evaluate and manage the possible risk of harm posed by an accused person working within the school.

The question as to whether suspension of the member of staff, who is subject of the allegation, is appropriate should be considered ideally in the strategy meeting.

A risk assessment will be completed for each individual case, and will take into account:

- the context of the allegation,
- background information in relation to the member of staff and the student;
- the result of any strategy or planning meeting which takes place;
- whether a temporary transfer or period of paid leave is appropriate as an alternative to suspension.

Suspension will not be an automatic response when an allegation is made, however we acknowledge that in rare cases consideration will need to be given where there is cause to suspect that a child / children is / are at risk of harm or where the case is so serious that it might be grounds for dismissal.

The decision to suspend will be taken by the Proprietor in consultation with the LADO.

The LADO / Police will be contacted should there be concerns regarding the welfare of other children in the community or the accused family.

Immediate suspension will occur in circumstances where The Belsteads School is made aware that the Secretary of State has made an interim prohibition order in respect of an individual working within the school, pending the findings of the National College for Teaching & Leadership (NCTL).

Where it is deemed necessary to suspend the accused:

- the rationale and justification for the action will be agreed and recorded by the DSL and LADO. Information will also include what alternatives to suspension have been considered and why they were rejected.
- The accused will be informed immediately.
- Written confirmation will be forwarded within **one working day**, giving as much detail as appropriate. Information will also include details of their named support within the school and their contact details.

Where the LADO, Children's Social Care and police have no objections to the accused continuing to work during the investigation, The Belsteads School will consider the following alternatives:

- Redeployment so that the individual does not have direct contact with the student / students concerned;
- Redeploying to alternative work so that the individual does not have unsupervised access to students;
- Temporarily redeploying the member of staff to another role at an alternative location.

In all cases, The Belsteads School will consider the potential for damage to the professional reputation of the individual as a result of suspension where an allegation is later found to be unsubstantiated or maliciously intended.

INFORMATION SHARING

In a strategy/planning or initial evaluation of the case the agencies concerned will share all relevant information they have about the person who is the subject of an allegation, and about the alleged victim.

In cases of police involvement, The Belsteads School will ask the police to obtain consent from the individual involved to share their statements and evidence for use in internal disciplinary procedures.

ACTION FOLLOWING A CRIMINAL INVESTIGATION OR A PROSECUTION

The police or the Crown Prosecution Service (CPS) should inform the school and LADO straight away when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to continue to prosecute the case after person has been charged.

In these circumstances the LADO will discuss with the DSL whether any further action, including disciplinary action, is appropriate and, if so, how to proceed. The information provided by the police and/or the local authority social care services should inform that decision.

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

- Substantiated – there is sufficient evidence to prove the allegation;
- Malicious – there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
- False – there is sufficient evidence to disprove the allegation;

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

Action on Conclusion of a Case

If the allegation is substantiated and the member of staff is dismissed or the school ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the LADO will discuss with the school whether a referral to the DBS for consideration of inclusion on the barred lists is required or for teaching staff whether a referral to the NCTL to consider prohibiting the individual from teaching is required.

Referrals will be made as soon as possible after the resignation or removal of the member of staff involved and within one month of ceasing to use the person's services.

There is a legal requirement for The Belsteads School to make a referral to the DBS where it is thought that an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child.

In cases where it is decided on the conclusion of the case that a person who has been suspended can return to work, The Belsteads School will consider how best this can be facilitated. We recognise that most staff will benefit from some help and support to return to work after a very stressful experience. Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate.

The Belsteads School will also consider how the member of staff's contact with the student who made the allegation can best be managed if they are still at the school.

ACTION IN RESPECT OF MALICIOUS OR UNSUBSTANTIATED ALLEGATIONS

In the event that an allegation is shown to have been deliberately invented or malicious, discussions with relevant agencies will determine whether the child is in need of services or if any other action is appropriate.

Where an allegation is made by an employee or volunteer and found to be false and/or malicious, an investigation will take place under the school's Disciplinary Policy. The Police may also be asked to consider whether they should take any action against the individual making the allegation.

LEARNING LESSONS

At the conclusion of a case in which an allegation is substantiated the LADO will review the circumstances of the case with the DSL to determine whether there are any improvements to be made to the school's procedures or practice to help prevent similar events in the future.

OVERSIGHT AND MONITORING

The school will work closely with the LADO who has overall responsibility for oversight of the procedures for dealing with allegations; for resolving only inter-agency issues and for liaison with the Local Safeguarding Childrens Board (LSCB).

The LADO will provide advice and guidance to the DSL. Reviews will normally be conducted at fortnightly or monthly intervals, depending on the complexity of the case.

APPENDIX 1: A Guide for Staff Faced with an Allegation of Abuse

The Belsteads School will immediately consult the LADO who is responsible for the management and oversight of individual cases, if it is alleged that a member of staff or volunteer has:

- behaved in a way that has harmed a child, or may have harmed a child; or
- possibly committed a criminal offence against or related to a child; or
- behaved in a way that indicates s/he is unsuitable to work with children

You will be told about the allegation as soon as possible, but this may be delayed if Police or Children's Social Care need to agree what information can be disclosed. If the senior manager and LADO are clear that an allegation is demonstrably false, you should also be informed of this and told that no further action will be taken.

What happens next?

If there is cause to suspect a child has been, or could be, harmed or a criminal offence might have been committed, a strategy discussion will be held, involving Police, the LADO, the school DSL, Social Care and other agencies as appropriate. The aim of the strategy discussion will be to share relevant information, plan and determine whether an investigation needs to be conducted by:

- Social Care under child protection procedures
- Police regarding any possible criminal offences
- The Belsteads School under disciplinary/capability procedures

Internal Investigations

The Belsteads School may need to conduct an internal investigation in order to decide how to proceed. It may be conducted by a senior member of staff or by an independent person, depending on the availability of resources and the nature/complexity of the case. It may also need to be delayed so as not to prejudice possible criminal proceedings and investigation which usually have to take precedence. You will be informed in such circumstances.

Volunteers and Supply Workers

If you are a supply worker or volunteer, the placing agency will be involved and co-operate in any investigation.

Resignations and Compromise agreements

The Belsteads School will try to reach a conclusion regardless of whether you resign or otherwise cease to provide your services, or if you refuse to co-operate. We will not use a "compromise agreement," i.e. allow you to resign without disciplinary action and with an agreed reference.

Timescales

Cases will be dealt with as quickly as possible consistent with a fair and thorough investigation. Government guidance sets out target timescales, but these will depend on factors such as the nature, seriousness and complexity of the allegation. Your case will be monitored in order to avoid unnecessary delay. However, delays can often occur if criminal proceedings are taken

Suspension

Suspension is a neutral act, not a sanction. It will not be automatic and alternatives will be considered. The Belsteads School will have the final decision, but will take into account the views of Police and Social Care if they are involved. Suspension will be considered in all cases where:

- there is cause to suspect a child is at risk of significant harm, or
- the allegation warrants a police investigation, or
- it is serious enough to be grounds for dismissal

If suspension is being considered, this will normally involve an interview with you having the right to be accompanied by a Trade Union representative or a friend. If such a meeting does occur it is not an examination of the evidence but an opportunity for you to make representations concerning suspension. If you are to return to work after suspension, The Belsteads School will consider how best this can be managed.

Support

A member of the SMT will advise you about seeking adequate support for yourself; this may include a range of things including:

- advice to contact your Union representative
- being given the name of a contact who will keep you up to date with progress of the case
- being given the name of a contact to keep you up to date with work activities if suspended (you should not discuss the case with colleagues)
- an offer of the services of a Counsellor.

You are also advised to contact your GP if you feel your health is being affected.

Notifications

Confidentiality will be respected and people only told on a 'need to know' basis. If the matter becomes subject to speculation, The Belsteads School, after appropriate consultation, may need to issue a statement for parents / carers, students or the public.

Record Keeping

A comprehensive summary of the case will be kept on your confidential personnel file and retained until normal retirement age or 10 years after the allegation, if longer. This includes allegations found to be without substance. You will be provided with a copy of the summary. Other agencies, if involved, will keep their own records.

Independent Safeguarding Authority

The Belsteads School have a statutory duty to report details of the case to the DBS where an independent panel will consider the case of barring you from, or placing restrictions on, working with children or young people, if:

- you are dismissed for misconduct or because you are otherwise considered unsuitable to work with children, or
- you resign before a disciplinary process is completed and your employer considers that the evidence was sufficient to consider dismissal

Alleged criminal offence

If police decide to investigate, you may be arrested or invited to assist voluntarily with the investigation. You should contact your Trade Union and/or a solicitor for advice.

At any time during an allegation investigation/enquiry please do ask questions if you are not clear what is happening or why. The Belsteads School recognise the anxieties raised by such matters but will ensure a fair and thorough approach. If you feel this is not happening please raise this with a member of the SMT.