

Managing Allegations Against Staff and Volunteers



RHODES AVENUE
PRIMARY SCHOOL

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Rhodes Avenue Primary School

Managing Allegations Against Staff and Volunteers Policy

Introduction

Rhodes Avenue Primary School is committed to providing the highest level of care for both its pupils and its staff. It is extremely important that any allegations of abuse against a teacher, any other member of staff, or volunteer in our school is dealt with thoroughly and efficiently, maintaining the highest level of protection for the child whilst also giving support to the person who is the subject of the allegation. Our policy is in line with statutory guidance from the Department of Education and in line with recommendations from Keeping Children Safe in Education 2022.

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

Purpose

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

Section 1:

Allegations that may meet the harms threshold (KCSIE Part 4 para 355-358)

This section would indicate that a person would pose a risk of harm if they continue to work in their present position, or in any capacity with children in school, including if the person:

- behaved in such a way that may have harmed a child or may have intended to harm a child;
- possibly committed a criminal offence against or related to a child;
- behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children;
- behaved in any way that suggests they may be unsuitable to work with children this includes behaviour that may have happened outside of school that might make an individual unsuitable to work with children, this is known as transferable risk. Where appropriate an assessment of transferable risk to children with whom the person works would be undertaken. Advice would be sought from Haringey LADO (Local Authority Designated Officer).

A case manager will lead the investigation. This will be either the headteacher or, where the headteacher is the subject of an allegation, the chair of governors. The LADO will be contacted by the Headteacher or Chair of Governors and a discussion will take place to decide the following:

- to establish the facts and to help determine whether there is any foundation to the allegation, being careful not to jeopardise any future police investigation. For example:
- was the individual in the school or college at the time of the allegations?
- did the individual, or could the individual have come into contact with the child?

- are there any witnesses, and was there any CCTV footage?

The Initial response to an allegation KCSIE 2022 Part 4 para 359-367

An investigation into the allegations is normally carried out by children's social services or by the school. This will be agreed at the initial evaluation stage. Where the school is not conducting the investigation it will cooperate with investigative agencies.

There are two aspects to consider when an allegation is made:

- **Looking after the welfare of the child** - the designated safeguarding lead (or deputy) is responsible for ensuring that the child is not at risk and referring cases of suspected abuse to the local authority children's social care
- **Investigating and supporting the person subject to the allegation** - the case manager will discuss with the LADO, the nature, content and context of the allegation, and agree a course of action.

Internal investigations must be second to any safeguarding investigation and may need to be delayed until the external investigation is complete including following a criminal investigation or prosecution [KCSIE 2022 Part 4 para 403-404](#)

When dealing with allegations, Rhodes Avenue will:

- apply common sense and judgement;
- deal with allegations quickly, fairly and consistently;
- provide effective protection for the child and support the person subject to the allegation.

No further action KCSIE 2022 Part 4 para 368

Where the initial discussion leads to no further action, the case manager and the LADO should:

- record the decision and justification for it;
- agree on what information should be put in writing to the individual concerned and by whom.

Further enquiries KCSIE 2022 Part 4 para 369-372

Where further enquiries are required to enable a decision about how to proceed, the LADO and case manager should discuss how and by whom the investigation will be undertaken. The LADO will provide advice and guidance to Rhodes Avenue Primary when considering allegations against adults working with children. The LADO's role is not to investigate the allegation, but to ensure that an appropriate investigation is carried out, whether that is by the police, local authority children's social care, Rhodes Avenue Primary, or a combination of these.

If there is a lack of appropriate resources at any time within Rhodes Avenue Primary, or the nature or complexity of the allegation requires it, the allegation will require an independent investigator. Haringey will provide an independent investigation of allegations for Rhodes Avenue Primary. The case manager will monitor the progress of cases to ensure that they are dealt with as quickly as possible in a thorough and fair process. Wherever possible, the first review will take place no later than four weeks after the initial assessment.

Dates for subsequent reviews, will be set at the review meeting if the investigation continues.

Suspensions KCSIE 2022 Part 4 para 378 – 385

At Rhodes Avenue suspension is not an automatic response when an allegation is reported. All options to avoid suspension will be considered prior to taking that step.

The case manager **will** consider carefully whether the circumstances warrant suspension from contact with children at Rhodes Avenue Primary until the allegation is resolved. It should be considered only in cases where there is cause to suspect a child or other children at Rhodes Avenue are at risk of harm, or the case is so serious that there might be grounds for dismissal. If in doubt, the case manager will seek views from their personnel adviser and the LADO, as well as the police and local authority children's social care where they have been involved.

When Rhodes Avenue Primary is made aware that the Secretary of State has made an interim prohibition order, in respect of an individual who works at our school, we take immediate action to ensure the individual does not carry out work in contravention of the order. This means that pending the findings of the TRA investigation, the individual **will not** carry out teaching/support work.

In many cases, an inquiry can be resolved quickly and without the need for suspension. The employer will decide on whether the individual should continue to work at Rhodes Avenue Primary, based on consultation with the LADO who will provide relevant information received from the police or local authority children's social care on whether they have any objections to the member of staff continuing to work during the investigation of the case.

Based on advice from Haringey HR, Rhodes Avenue Primary will draw up a risk analysis with the LADO; the following alternatives will be considered by the case manager before suspending a member of staff:

- redeployment within the school or college so that the individual does not have direct contact with the child or children concerned;
- providing an assistant to be present when the individual has contact with children;
- redeploying to alternative work, so the individual does not have unsupervised access to children;
- moving the child or children to classes where they will not come into contact with the member of staff, but this decision should only be made if it is in the best interest of the child or children concerned and takes accounts of their views. It will be made clear that this is not a punishment and parents have been consulted.

These alternatives allow time for an informed decision regarding the suspension, this will, however, depend upon the nature of the allegation. The case manager should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unfounded, unsubstantiated, malicious, or false.

If immediate suspension is considered necessary, the case manager will record the rationale and justification for such a course of action. This will also include what alternatives to suspension have been considered and why they were rejected.

Where it has been deemed appropriate to suspend the person, written confirmation will be given within one working day, giving as much detail as appropriate for the reasons for the suspension. Rhodes Avenue Primary will not leave a person who has been suspended without any support. The person should be informed at the point of their suspension who their named contact is within Rhodes Avenue Primary and provided with their contact details.

Local authority children's social care or the police may give their view to the LADO but they cannot require the case manager to suspend a member of staff or the removal of a volunteer, although the case manager should give appropriate weight to their views.

The power to suspend is vested in the governing body. However, where a strategy discussion, or initial assessment, concludes that there should be enquiries by local authority children's social care, and/or an investigation by the police, the LADO should canvass police and local authority children's social care for views about whether the accused member of staff should be suspended from contact with children. Police involvement does not make it mandatory to suspend a member of staff; this decision should be taken on a case-by-case basis having undertaken a risk

assessment about whether the person poses a risk of harm to children.

Supporting those involved – Duty of Care KCSIE 2022 Part 4 para 386-388

The welfare of a child is paramount and this will be the prime concern in terms of investigating an allegation against a person in a position of trust. However, when an allegation or safeguarding concern is being investigated it is likely to be a very stressful experience for the adult subject to the investigation, and potentially for their family members. Rhodes Avenue Primary will offer appropriate welfare support at such a time and recognises the sensitivity of the situation. Information is confidential and will not ordinarily be shared with other staff or with children or parents who are not directly involved in the investigation.

Rhodes Avenue Primary have a duty of care to their staff. We:

- manage and minimise the stress caused by the allegation;
- inform the individual as soon as possible, explaining the likely course of action, guided by the LADO, and the police where necessary;
- advise the individual to contact their trade union representative, or a colleague for support;
- appoint a named representative to keep the person informed about the progress of the case;
- provide access to counselling or medical advice where appropriate. This will include support via the local authority's occupational health arrangements, and,
- not prevent social contact with work colleagues and friends, when staff are suspended, unless there is evidence to suggest this may prejudice the gathering of evidence.

Parents or carers of the child or children involved will be:

- formally told about the allegation as soon as possible. The case manager will consult the LADO and where involved local authority children's social care and/or the police on what information can be disclosed;
- kept informed about the progress of the case, only in relation to their child - no information can be shared regarding the staff member;
- made aware of the requirement to maintain confidentiality and unwanted publicity about any allegations made against teachers in schools whilst investigations are in progress as set out in section 141F of the Education Act 2002.

Confidentiality and Information Sharing - KCSIE 2022 Part 4 para 389-397

In an allegations management meeting or during the initial assessment of the case, Rhodes Avenue Primary will ensure that the agencies involved should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim (KCSIE 2022 Part 2 para 114-122).

Where the police are involved, wherever possible Rhodes Avenue Primary will ask the police to obtain consent from the individuals involved to share their statements and evidence for use in the school's disciplinary process. This will be done as the investigation proceeds and will enable the police to share relevant information without delaying the conclusion of their investigation or any court case.

Local authority children's social care will adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are 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 Rhodes Avenue Primary without delay.

Rhodes Avenue Primary **will** make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2011 amended the Education Act 2002, to introduce reporting restrictions. These provisions made it an offence (except in the limited circumstance expressly permitted by the legislation), for any person to publish any material that may lead to the identification of a teacher in a school who has been accused by, or on behalf of, a child from the same school (where that identification would identify the teacher as the subject of the allegation).

The reporting restrictions apply until:

- the point that the accused person is charged with a relevant offence;
- the Secretary of State publishes information about an investigation or decision in a disciplinary case arising from the allegation.

The reporting restrictions are disapplied if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a court lifts the reporting restrictions in response to a request to do so.

The legislation prevents the "publication" of material by any person that may lead to the identification of the teacher who is the subject of the allegation. "Publication" includes "any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public." This means that a parent who, for example, published details of the allegation on a social networking site would be in breach of the reporting restrictions (if what was published could lead to the identification of the teacher by members of the public). In circumstances where Rhodes Avenue Primary need to make parents aware about an allegation, they should make parents and others aware that there are restrictions on publishing information.

In accordance with the [Authorised Professional Practice published by the College of Policing](#) in May 2017, the police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. In exceptional cases where the police wish to depart from that rule, for example an appeal to trace a suspect, they **must** apply to a magistrates' court to request that reporting restrictions be lifted.

The case manager should take advice from the LADO, the police and local authority children's social care to agree the following:

- who needs to know and 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;
- how to manage press interest if, and when, it should arise.

Allegation outcomes KCSIE 2022 Part 4 para 398-402

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Rhodes Avenue Primary uses the following definitions:

- **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 or cause harm to the person subject of the allegation

- **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, or
- **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made.

The options Rhodes Avenue take depend on the nature and circumstances of the allegations and the evidence and information available. This will range from taking no further action, to dismissal or a decision not to use the person's services in future.

Following a substantiated allegation

If the allegation is substantiated and:

- the person is dismissed; resigns, or otherwise ceases to provide his or her services, or
- the employer ceases to use the person's services.

In the case of a member of teaching staff at Rhodes Avenue Primary, the case manager **will** consider whether to refer the matter to the TRA (Teaching Regulation Agency) to consider whether the individual should be prohibited from teaching.

There is a **legal requirement** for Rhodes Avenue Primary to make a referral to the DBS where we consider an individual has engaged in conduct that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child.

Following a criminal investigation or a prosecution KCSIE 2022 Part 4 para 398-400

The police should inform the LADO and Rhodes Avenue Primary immediately when:

- a criminal investigation and any subsequent trial is complete;
- it is decided to close an investigation without charge;
- it is decided not to continue to prosecute after the person has been charged.

In those circumstances, during the joint assessment meeting the LADO should discuss with the case manager whether any further action, including disciplinary action, is appropriate and, if so, how to proceed. The information provided by the police and/or local authority children's social care should also inform that decision. The options will depend on the circumstances of the case and the consideration should take into account the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

KCSIE 2022 Part 4 para 400-401

If an allegation is determined to be unsubstantiated, unfounded, false or malicious, the LADO and the case manager should consider whether the child and/or the person who has made the allegation is in need of help or may have been abused by someone else and this is a cry for help. In such circumstances, a referral to local authority children's social care may be appropriate.

If an allegation is shown to be deliberately invented or malicious, Rhodes Avenue Primary will consider whether any disciplinary action is appropriate against the individual who made it.

Returning to Work KCSIE 2022 Part 4 para 407

Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the case manager will consider how best to facilitate that. Guidance and advice will be provided via HR or the LADO. Most people will benefit from some help and support to return to work after a 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 case manager should also

consider how the person's contact with the child or children who made the allegation can best be managed if they are still attending the school or college.

Resignations and 'settlement agreements' KCSIE 2022 Part 4 para 408-413

'Settlement agreements' (sometimes referred to as compromise agreements), by which a person agrees to resign if Rhodes Avenue Primary 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 at Rhodes Avenue Primary, where there are allegations that indicate the person is a risk or poses a risk of harm to children or deemed not suitable to work with children. Such an agreement will not prevent a thorough police and/or school or college investigation where that is appropriate.

Rhodes Avenue Primary will not cease their investigations if the person leaves, resigns or ceases to provide their services. Every effort will be 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 cooperate.

Wherever possible, the accused should be given full opportunity to answer the allegation and make representations about it. The process of recording the allegation and any supporting evidence and reaching a judgement about whether it can be substantiated or otherwise on the basis of all the information available, should continue even if the accused does not cooperate. 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 an outcome wherever possible. The person concerned should be notified of the conclusion of the allegations and sanctions that might be posed.

Other than where allegations are false, malicious, unsubstantiated, or unfounded, the outcome should be made clear when providing references to prospective employers. This is particularly important where the person moves into another position involving working with children.

It is not appropriate to reach a settlement/compromise agreement if the person subject to the allegation resigns or their services cease to be used. However, in limited circumstances Rhodes Avenue Primary may sometimes use settlement agreements to end the employment relationship on agreed terms, but not where there is an allegation that the individual poses a risk to children.

Where a settlement/compromise agreement is used, schools and colleges will not let it prevent Rhodes Avenue Primary from:

- fulfilling their legal duty to refer cases to the DBS where the referral criteria are met - Non-compliance of this duty is a criminal offence;
- providing a reference to potential employers when requested;
- considering whether to make a referral to the TRA where the criteria are met.

Record keeping KCSIE 2022 Part 4 para 414 – 417

Details of allegations following an investigation that are found to have been malicious or false should be removed from personnel records unless the individual gives their consent for retention of the information. However, for all other allegations, i.e. substantiated, unfounded and unsubstantiated it is important that the following information is kept on the file of the person accused:

- a clear and comprehensive summary of the allegation
- details of how the allegation was followed up and resolved

- a note of any action taken, decisions reached and the outcome i.e. substantiated, unfounded or unsubstantiated
- a copy provided to the person concerned, where agreed by local authority children's social care or the police, and
- a declaration on whether the information will be referred to in any future reference.

The purpose of the record is to enable accurate information to be given in response to any future request for a reference. It will provide clarification in cases where future DBS checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.

Rhodes Avenue Primary has an obligation to preserve records which contain information about allegations of sexual abuse for the Independent Inquiry into Child Sexual Abuse (IICSA), for the term of the inquiry. All other records should be retained at least until the accused has reached normal pension age or for a period of 10 years from the date of the allegation if that is longer.

References KCSIE 2022 Part 4 para 419

Cases in which an allegation was found to be false, unfounded, unsubstantiated or malicious will not be included in employer references. Any repeated concerns or allegations which have all been found to be false, unfounded, unsubstantiated or malicious should also not be included in any reference. Substantiated safeguarding allegations that meet the harm threshold should be included in references, provided that the information is factual and does not include opinions.

After the case – Learning Lessons KCSIE 2022 Part 4 para 419-420

Throughout the process in handling allegations and at conclusion of a case in which an allegation is substantiated, the LADO will review the circumstances of the case with the case manager to determine whether there are any improvements to be made to Rhodes Avenue Primary's procedures to help prevent similar events in the future. This will include issues arising from any decision to suspend the member of staff, the duration of the suspension and whether or not suspension was justified. Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated. The LADO and case manager should consider how future investigations of a similar nature could be carried out without suspending the individual.

For all other cases, where the allegation concluded to be either, unfounded, false, malicious or unsubstantiated the case manager (and if they have been involved the LADO) will consider the facts and determine whether any lessons can be learned and if improvements can be made.

Section Two: Concerns or allegations that do not meet the harm threshold

Rhodes Avenue Primary have policies and processes to deal with **any** concerns or allegations which **do not** meet the harm threshold, referred to as 'low-level' concerns

Low-level concerns KCSIE 2022 Part 4 para 423-425

As part of our whole school approach to safeguarding, we ensure that we promote an open and transparent culture in which **all** concerns about all adults working in or on behalf of Rhodes Avenue (including supply teachers, volunteers and contractors) are dealt with promptly and appropriately.

Rhodes Avenue Primary creates a culture in which **all** concerns about adults are shared responsibly and with the right person, recorded and dealt with appropriately. This will include identifying inappropriate, problematic or concerning behaviour early to:

- minimise the risk of abuse;
- ensure that adults working in or on behalf of Rhodes Avenue Primary are clear about professional boundaries and act within these boundaries, and in accordance with the ethos and values of the institution.

What is a low-level concern?

The term 'low-level' concern does not mean that it is insignificant. A low-level concern is any concern – no matter how small, and even if no more than causing a sense of unease or a 'nagging doubt' - that an adult working in or on behalf of Rhodes Avenue Primary may have acted in a way that:

- is inconsistent with the staff code of conduct, including inappropriate conduct outside of work;
- does not meet the harm threshold or is otherwise not serious enough to consider a referral to the LADO;

Examples of such behaviour could include, but are not limited to:

- being over friendly with children;
- having favourites;
- taking photographs of children on their mobile phone, contrary to school policy;
- engaging with a child on a one-to-one basis in a secluded area or behind a closed door;
- humiliating children.

Such behaviour can exist on a wide spectrum, from the inadvertent or thoughtless, or behaviour that may look to be inappropriate, but might not be in specific circumstances, through to that which is ultimately intended to enable abuse.

Low-level concerns may arise in several ways and from a number of sources. For example: suspicion; complaint; or disclosure made by a child, parent or other adult within or outside of the school; or as a result of vetting checks undertaken.

It is crucial that all low-level concerns are shared responsibly with the right person and recorded and dealt with appropriately. Ensuring they are dealt with effectively should also protect those working in or on behalf of Rhodes Avenue Primary from becoming the subject of potential false low-level concerns or misunderstandings.

Sharing low-level concerns KCSIE 2022 Part 4 para 432 - 435

Rhodes Avenue ensures that all low-level concerns are taken seriously and shared appropriately. They should be made clear, easy to understand and implement. All low-level concerns are shared initially with the DSL and the headteacher. These should be shared in a timely fashion according to the nature of each particular low-level concern. The DSL/headteacher will be the ultimate decision maker in respect of all low-level concerns. Low-level concerns which are shared about supply staff and contractors will be notified to their employers, so that any potential patterns of inappropriate behaviour can be identified.

If Rhodes Avenue Primary are in any doubt as to whether the information which has been shared about a member of staff as a low-level concern in fact meets the harm threshold, they should consult with their LADO.

Rhodes Avenue will ensure an environment is created where staff are encouraged and feel confident to self-refer, where, for example, they have found themselves in a situation which could be misinterpreted, might appear compromising to others, and/or on reflection they believe they have behaved in such a way that they consider falls below the expected professional standards.

Recording low-level concerns KCSIE 2022 Part 4 para 436 - 439

All low-level concerns will be recorded in writing. The record will include details of the concern, the context in which the concern arose, and action taken. The name of the individual sharing their concerns should also be noted, if the individual wishes to remain anonymous then that should be respected as far as reasonably possible. Records are held securely and comply with the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR).

Records will be reviewed so that potential patterns of inappropriate, problematic or concerning behaviour can be identified. Where a pattern of such behaviour is identified, Rhodes Avenue Primary will decide on a course of action, either through its disciplinary procedures or where a pattern of behaviour moves from a low-level concern to meeting the harm threshold, in which case it will be referred to the LADO. Consideration will also be given to whether there are wider cultural issues within Rhodes Avenue Primary that enabled the behaviour to occur and where appropriate policies could be revised, or extra training delivered to minimise the risk of it happening again.

Records will be retained until at least until the individual leaves their employment.

Responding to low-level concerns KCSIE 2022 Part 4 para 441 - 444

If a concern has been raised via a third party, the DSL/headteacher (or a nominated deputy) will collect as much evidence as possible by speaking:

- directly to the person who raised the concern, unless it has been raised anonymously;
- to the individual involved and any witnesses.

The information collected will help the DSL/Headteacher to categorise the type of behaviour and determine what further action may need to be taken. This information will be recorded in writing along with the rationale for any decisions and action taken.