



# Wade Deacon High School

*Wade Deacon Trust*

*Exceptional Values*

*Exceptional Learning & Teaching*

*Exceptional Achievement*

# ALLEGATIONS AGAINST ADULTS POLICY 2018-2019

Policy & Procedure Number:

Date of Board of Governors' Review:

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School Link: Claire Ward

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## I INTRODUCTION

- 1.1 Experience shows that children can become victims of abuse and exploitation by those adults who work with them in any context. Wade Deacon High School takes its safeguarding responsibilities very seriously and recognises that any instances where a member of staff may have 'harmed' a student, must be investigated thoroughly, professionally and objectively to ensure the student or the member of staff are not prejudiced in any way.
- 1.2 Arrangements therefore for managing concerns or allegations of this nature should be robust and effective in keeping children safe. All allegations should be taken seriously, approached with an open mind, and not driven by preconceived opinions about whether a student has or has not been harmed or preconceived opinions on whether the member of staff has harmed or not harmed the student in any way.
- 1.3 Measures and procedures for dealing with allegations against staff should be proportionate and timely, open to challenge, and in the best traditions of collaborative working, as set out in statutory guidance:
  - 1.3.1 Working Together (July 2018)
  - 1.3.2 Keeping Children Safe in Education (September 2018)
- 1.4 These procedures must be applied consistently where there is a concern or an allegation that a member of staff has:
  - 1.4.1 Behaved in a way that has harmed a child, or may have harmed a child;
  - 1.4.2 Possibly committed a criminal offence against or related to a child; or
  - 1.4.3 Behaved towards a child or children in a way that indicates s/he is unsuitable to work with children.
- 1.5 Any allegation of abuse (linked to the thresholds above) made by a student against any member of staff or volunteer at the school, must follow the procedures specified in this Policy. The procedures for dealing with allegations against adults need to be applied with common sense and judgement.

## 2 REPORTING AN ALLEGATION

- 2.1 The person who is in receivership of the allegation or report of abuse by a member of staff of a student must be reported to the Principal. A referral may be made initially to any adult in the organisation or the Designated Safeguarding Lead (DSL) / Deputy Designated Safeguarding Leads who will pass the details of the allegation to the Principal immediately. Should the allegation be made against the school Principal,

this should be reported to the Chair of Governors immediately (please see Claire Rutland for contact details).

- 2.2 If a student makes an allegation, the member of staff should listen carefully and make notes on the incident reported. The member of staff should record the information in keeping with the school's procedures and processes for safeguarding disclosures (please see the school's Safeguarding & Child Protection Policy for further details). It is important that the member of staff listens carefully and records the information as reported by the child.
- 2.3 All allegations should be taken seriously, approached with an open mind, and not driven by preconceived opinions about whether a student has or has not been harmed or preconceived opinions on whether the member of staff has harmed or not harmed the student in any way.
- 2.4 Should any of the allegations meet any of the thresholds set out in paragraph 1.4 then the Principal must report the allegation to the Designated Officer – for Halton (HSBC) this is referred to as the Local Authority Designated Officer (LADO). In Halton, the functions of the LADO are undertaken by members of the Safeguarding Unit under a duty system; the term LADO is used to refer to the team of officers rather than a named individual. The LADO can be contacted on **0151 511 7229**.
- 2.5 Wade Deacon High School recognises that there are occasions when a person who works with children behaves in a way that is concerning and raises questions about their ability to recognise and take steps to safeguard children in their care that wouldn't meet the threshold of LADO. As an employer, the school has a duty to consider whether the issue indicates that they are unsuitable to continue in their role for the immediate future or indefinitely. These are known as issues of suitability and would be dealt with via the school's disciplinary procedures. Issues of suitability can include:
  - 2.5.1 Where an employee is being investigated for an offence against an adult;
  - 2.5.2 Their behaviour in their personal lives brings into question their suitability to work with children.
- 2.6 However if an adult who works with children has involvement from Children's Social Care in respect of their own child, or a child that they live with or have contact with, it is the responsibility of Children's Social Care to assess the immediate concern and inform the LADO of whether the adult poses a risk to children. Examples of this may include:
  - 2.6.1 Allegations of assault, physical or emotional, on their own child or on a child they live with or have contact with;
  - 2.6.2 Domestic abuse;

- 2.6.3 Substance misuse;
  - 2.6.4 Lives with or is in a relationship with a person who is identified as a risk to children.
- 2.7 The situation would meet the threshold of the LADO should the child in question be made subject to a Child Protection plan. This is because Children's Social Care has determined that the adult presents a risk to the associated child either directly or due to a failure to protect.
- 2.8 Staff in school should ensure that they disclose information about themselves relating to the above to the Principal as soon as possible. School will create an environment and culture where staff are able to do this.

### **3 INITIAL CONSIDERATIONS**

- 3.1 The Principal will keep the allegation as confidential as possible but may consult with the DSL to ensure that all of the relevant information about the student and the member of staff can be carefully considered. It will also be necessary for the Principal to refer to previous staff conduct records to establish any potential patterns of behaviour.
- 3.2 The Principal will discuss the matter with the LADO and record the details of the allegation via a consultation form. This should be sent via secure e-mail to [safeguarding.unit@halton.gcsx.gov.uk](mailto:safeguarding.unit@halton.gcsx.gov.uk). The referral must be made within 24 hours of receiving the allegation. Based on Halton's procedures, a consultation form must always be completed, even when there is uncertainty on whether the threshold has been met. This is an important process especially in situations where the case does not meet the threshold for the LADO as this could indicate that further training is required for the school on what does and does not constitute further action from the LADO.
- 3.3 Following the referral, the LADO may offer guidance to the employer to ensure that appropriate actions are taken. It is not the role of the LADO to determine whether the suspension of the member of staff is required nor will they undertake investigations.
- 3.4 The procedures for dealing with allegations need to be applied with common sense and judgement. Once a consultation form has been completed, the Principal will discuss the matter with the LADO and provide any further details about the allegation and the circumstances in which it was made. The LADO and the Principal will discuss the nature, content and context of the allegation and agree a course of action. The LADO may also ask for additional information such as previous history, whether the child or family have made similar allegations previously and about the member of staff's contact with children.

- 3.5 Where an allegation has been made, the Principal should inform the accused person as soon as possible after consulting with the LADO. It is important that the member of staff is provided with as much information as possible at this time as long as this does not impact or affect the allegation/investigation procedures.
- 3.6 Many cases will not meet the criteria (set out in Paragraph 1.4) or may do so without warranting consideration of either a police investigation or enquiries by local authority children's social care services. In these cases, action should remain within normal line management arrangements/disciplinary procedures.
- 3.7 Where no further action is to be taken regarding the allegation, the decision and justification for it should be recorded by both the Principal and the LADO. Both parties should specify how the agreement has been reached and how this will be communicated to all parties involved.

#### **4 THE LADO PROCESS**

- 4.1 Allegations that are serious will require immediate intervention by children's social care services and/or police for example if the person is deemed to be an immediate risk to children or there is evidence of a possible criminal offence. Where allegations appear to meet the criteria, the LADO should consult with the police and children's social care services as appropriate.
- 4.2 Employers must consider carefully whether the evidence of a case warrants a person being suspended from contact with children at the school or whether alternative arrangements can be put in place until the allegation is resolved. All options to avoid suspension should be considered prior to taking this step.
- 4.3 Whilst the LADO can offer advice to employees, it is not the LADO's decision to suspend. This is the employer's decision and should take into account guidance provided by the school's HR department.
- 4.4 If there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy meeting should be arranged in accordance with the statutory guidance in Working Together to Safeguard Children; this will take place within five days of receiving the initial referral. In arranging the strategy meeting, the LADO will liaise with appropriate agencies to ensure that all the right people are represented. If the allegation relates to physical contact, the discussion or initial evaluation should take into consideration that teachers and other members of staff are entitled to use reasonable force to restrain or control children in certain circumstances, including dealing with disruptive behaviour.
- 4.5 Further enquiries may be needed to enable a decision about how to proceed. If so, the LADO should discuss with the Principal how the investigation should be

undertaken. In many cases, the investigation should be undertaken by a senior member of staff.

- 4.6 In all instances it will be necessary for the employer to consider the suitability of the professional to continue in their post during the course of an investigation. The employer must ensure that they have considered all other options available and suspension should only be used if the information suggests that the professional presents an immediate risk to the child in question or other children within their role in the school. Decisions made by the employer must be reported to the LADO.
- 4.7 In cases where the employer chooses to dismiss the professional involved prior to the strategy meeting or prior to the conclusion of the investigation, they do so in isolation; the LADO and the strategy group are not responsible for those decisions. In such cases, the employer must refer the matter to the Disclosure and Barring Service (DBS).

## **5 SUPPORTING EMPLOYEES**

- 5.1 Employers have a duty of care to their employees by managing and minimising the stress inherent in the allegations process. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the course of action unless there is an objection by children's social care services or the police. The individual should be advised to contact their trade union representative or a colleague for support. Other agencies of support should be sought (counselling or Occupational Health) if appropriate. The Principal should appoint a named representative to keep the person who is the subject of the allegation informed of the progress.

## **6 SUPPORTING PARENTS**

- 6.1 Parents and carers of the child or children involved should be told about the allegation as soon as possible if they do not already know. If the allegation leads to a strategy meeting or the police or children's social care services are involved, information should not be shared with parents or carers until those agencies have been consulted. Parents or carers should also be kept informed about the progress of the case as well as the outcomes.
- 6.2 Parents and carers should also be made aware of the requirement to maintain confidentiality about any allegations made against members of staff whilst investigations are ongoing.
- 6.3 In cases where a child may have suffered significant harm, or where there may be a criminal prosecution, children's social care services, or the police, should consider what support the child or children involved may need.

## 7 SUSPENSION

- 7.1 The employer may decide to suspend the employee until the case is resolved based upon careful evaluation of the allegation and the possible risk of harm to children. Suspension should not be an automatic response and all options to avoid suspension should be considered prior to taking that step. If the school is concerned about the safety and welfare of other children or the member of staff's own family, these concerns should be reported to the LADO or police, but suspension is highly unlikely to be justified on the basis of such additional concerns alone.
- 7.2 Suspension should only be considered in cases where there is cause to suspect a child or other children at the school is/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. Again, the school will need to carefully consider whether the circumstances warrant suspension.
- 7.3 The school should also consider whether alternative arrangements could be made to avoid suspension. If the LADO and children's social care services have no objections, the employer should be as inventive as possible to avoid suspension. Alternatives to suspension could be:
- 7.3.1 Redeployment in the school so that the member of staff does not have direct contact with the child or children concerned;
  - 7.3.2 Providing an assistant to be present when the individual has contact with children;
  - 7.3.3 Redeployment to alternative work in the school so that the member of staff does not have unsupervised access to children;
  - 7.3.4 Moving the child or children to classes where they will not come into contact with the member of staff, making it clear that this is not a punishment and parents have been consulted;
  - 7.3.5 Temporarily deploying the member of staff to another role in a different location, for example to an alternative school within the Trust.
- 7.4 These alternatives allow time for the school to make an informed decision regarding the suspension and possibly reduce the initial impact of the allegation to all parties involved. The decision to suspend or not will be dependent on the nature of the allegation. The school should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unsubstantiated or maliciously intended.

- 7.5 If immediate suspension is necessary, the reasons for this should be agreed and recorded by the school and the LADO. This should also include what alternatives to suspension have been considered and the reasons for their rejection.
- 7.6 Where suspension has been deemed the appropriate course of action, written confirmation should be dispatched within one working day, giving as much detail as appropriate for the reasons for the suspension. The school should ensure support is in place for the employee and the member of staff should be informed at the point of their suspension who their named contact is within the organisation and provided with their contact details.
- 7.7 Children’s social care services or the police cannot require the school to suspend a member of staff, 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 employers of the staff at the school however, where a strategy discussion or initial evaluation concludes that there should be enquiries by the children’s social care services and/or an investigation by the police, the LADO should canvass views from these professionals about whether the accused member of staff needs to be suspended from contact with children in order to inform the school’s consideration of suspension. Involvement by the police does not make it mandatory to suspend a member of staff.
- 7.8 The school should carry out a risk assessment for each individual case, which should be carefully considered when making a decision to suspend, or not.

## **8 THE STRATEGY MEETING**

- 8.1 The initial meeting will seek agreement on how best to investigate the allegations. In all instances, a criminal investigation takes precedence over employer investigations; the school must consider the implications of commencing their own investigation prior to the conclusion of a police investigation. The LADO will refer the matter to the Registering body if employers continue with their own investigation against advice; this is due to the implications on the criminal process.
- 8.2 If a police investigation is not progressed, the employer becomes responsible for undertaking their own internal investigation. The strategy meeting will determine the areas of investigation required by the employer. The Agenda for the meeting as well as what is considered is set out in HSCB’s LADO Procedures. For further details, refer to: <http://children.haltonsafeguarding.co.uk/docs/LadoProcedures.pdf>
- 8.3 Review strategy meetings should take place at a frequency determined by the Chair and the strategy group members. The police will also provide regular updates of any ongoing police investigations.

- 8.4 The LADO has overall responsibility for the oversight of the procedures for dealing with allegations, for resolving any inter-agency issues, and for liaison with the three safeguarding partners (the local authority, a clinical commissioning group and the police).
- 8.5 The LADO will provide advice and guidance to the Principal whilst liaising with the police and other agencies and monitoring the progress of cases to ensure that they are dealt with as quickly as possible. Please refer to HSCB's LADO Procedures for further details: <http://children.haltonsafeguarding.co.uk/docs/LadoProcedures.pdf> Please see Appendix I for a flow chart of HSCB's procedures for the LADO.
- 8.6 If the strategy group or initial assessment decides that a police investigation is required, the police should also set a date for reviewing the progress of the investigation and consulting the Crown Prosecution Service (CPS) about whether to: charge the individual; continue to investigate or close the investigation. 'Keeping Children Safe in Education' guidance specifies that wherever possible, the review from the police should take place no later than four weeks after the initial evaluation.
- 8.7 The outcome of the strategy meeting will be agreed with the outcome being one of the following:
- 8.7.1 **Substantiated:** there is sufficient evidence to prove the allegation;
  - 8.7.2 **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
  - 8.7.3 **False:** there is sufficient evidence to disprove the allegation;
  - 8.7.4 **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence;
  - 8.7.5 **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made.
- 8.4 Upon conclusion of the investigation, a decision by the employer may be to dismiss the employee. Where this is the case, it is the legal responsibility of the employee to make a referral to the DBS. Where a referral is made, strategy notes are often requested in order to support their investigations into the longer-term suitability to continue to work with children. In these instances, the employer will contact the LADO who will provide notes to the DBS.
- 8.5 Where a person has been dismissed, the employer is making a decision that they are unsuitable to continue with their professional role. The employer must refer to the DBS. Where the employer fails to make a referral to the DBS, the LADO will make the referral, identifying that the employer has not acted in accordance with their

legal duty. The DBS will then initiate an investigation into the employer's failure to complete a referral as per their legal responsibility.

## **9 CONFIDENTIALITY**

9.1 When an allegation is made, the school should make every effort to maintain confidentiality and guard against unwanted publicity. The Education Act 2002 introduced reporting restrictions preventing the publication of any material that may lead to the identification of a member of staff in a school who has been accused. The reporting restrictions apply until the point that the accused person is charged with an offence.

## **10 RECORD KEEPING**

10.1 Details of allegations that are found to have been malicious should be removed from personnel records. However, for all other allegations, it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved and a note of actions and decisions reached are kept on the confidential file of the member of staff.

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

## **11 TIMESCALES**

11.1 All investigations should be investigated and resolved as quickly as possible. The timescales will be dependent on a variety of factors including the nature, seriousness and complexity of the allegation. In keeping with statutory guidance from 'Keeping Children Safe in Education (2018)', there is an expectation that 80 per cent of cases should be resolved within one month, 90 per cent within three months and all but the most complex and exceptional cases should be completed within 12 months.

11.2 Where it is immediately clear that the allegation is unsubstantiated or malicious, they should be resolved within one week. Where the initial consultation decided that the allegation does not involve a possible criminal offence it will be for the employer to deal with this. If there are concerns about child protection, the school should discuss them with the LADO. If the investigation does not require formal disciplinary action, appropriate action should be taken within three working days. If a disciplinary hearing is required, the hearing should be held according to the timescales stipulated by the employer's disciplinary procedures.

## **12 ACTIONS FOLLOWING A CRIMINAL INVESTIGATION OR A PROSECUTION**

12.1 The police should inform the LADO and the employer immediately 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 the person has been charged. In those circumstances, the LADO should discuss with the employer whether any further action, including disciplinary action, is appropriate and, if so, how to proceed. This should be based on information provided by the police and/or children's social care services. The options for the employer will depend on the circumstances of the case and the consideration will need to take into account the outcome of the police investigation or trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

### **13 ACTIONS FOLLOWING THE CONCLUSION OF A CASE**

- 13.1 If the allegation is substantiated and the employee is dismissed or the employee resigns or ceases to provide his or her services, the LADO should discuss with the employer whether the school or college will decide to make a referral to the DBS for consideration of whether inclusion on the barred lists is required.
- 13.2 The LADO and the employer will also need to consider whether a referral to the Teaching Regulation Agency (TRA) is needed to consider prohibiting the individual from teaching.
- 13.3 There is a legal requirement for employers 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 child or if a person otherwise poses a risk to a child.
- 13.3 Where it is decided that a person has been suspended during the investigation of the case, the employer should consider how best to facilitate their return. Most people will benefit from help and support to return after a stressful experience. Depending on the circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The employer should also consider how the employee's contact with the child or children who made the allegation can be best managed if they are still a student at the school.

### **14 ACTIONS FOLLOWING A MALICIOUS OR UNSUBSTANTIATED ALLEGATION**

- 14.1 If an allegation is determined to be unsubstantiated or malicious, the LADO should refer the matter to the children's social care services to determine whether the child concerned is in need of services, or may have been abused by someone else.
- 14.2 If an allegation is shown to be deliberately invented or malicious, the Principal should consider whether action is taken against the student.
- 14.3 If an allegation made by a member of staff is proved to be false and/or malicious, an investigation should take place. The police may also consider taking action against the individual making the allegation.

## **15 RESIGNATIONS AND 'SETTLEMENT AGREEMENTS'**

- 15.1 If the accused employee resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with these procedures. A referral to the DBS must be made if the allegation is subsequently substantiated. Schools must also consider whether a referral to the Secretary of State is appropriate.
- 15.2 If the accused person resigns or their services cease to be used and an allegation is substantiated, it will not be appropriate to reach a settlement/compromise agreement.
- 15.3 Any settlement/compromise agreement that would prevent a referral to the DBS, even though the criteria for referral are met, is likely to result in a criminal offence being committed. This is because the employer would not be complying with its legal duty to make a referral.
- 15.4 Even where the employee refuses to cooperate with the process, every effort should be made to reach a conclusion in all cases that potentially impact the welfare or safety of children. Wherever possible, the employee should be given a full opportunity to respond to the allegation and any supporting evidence. The process of recording the allegation and reaching a judgement about whether the allegation can be substantiated should continue even if that cannot be done or the member of staff does not cooperate. It may be difficult to reach a conclusion or it may not be possible to apply any disciplinary sanctions in these circumstances 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.
- 15.5 'Settlement agreements' (sometimes referred to as compromise agreements), by which a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, should not be used in cases where the employee refuses to cooperate or refuses to resign before the employee's notice period expires. Such an agreement will also not prevent a thorough police investigation where that is appropriate nor can it override the legal and statutory duty to make a referral to the DBS or TRA where circumstances require that.

## **16 PERSONEL FILES & REFERENCES**

- 16.1 Details of allegations that are found to be malicious should be removed from personnel files. However, for all other allegations, it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the

confidential personnel file of the accused, and a copy provided to the person concerned.

- 16.2 The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. 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 resurfaces after a period of time.
- 16.3 Schools have an obligation to preserve records that contain information about allegations of sexual abuse for the Independent Inquiry into Child Sexual Abuse (IICSA), for the term of the inquiry.
- 16.4 The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on record retention.
- 16.5 Cases in which an allegation was proven to be false, unsubstantiated or malicious should not be included in employer references. A history of repeated concerns which have all been found to be false, unsubstantiated or malicious should also not be included in any references.

## **17 LEARNING LESSONS**

- 17.1 At the conclusion of a case in which an allegation is made against a member of staff, lessons can be learned even where cases are proved or not. At its conclusion, relevant parties involved in the case should discuss what could be learned and therefore lead to improved practice, either to the school's procedures or to help prevent similar incidents in the future.
- 17.2 Where an allegation is substantiated, the LADO should review the circumstances with the school to determine whether there are any improvements to be made to the school's procedures. This should include issues arising from the decision to suspend the member of staff, the duration of the suspension and whether or not a suspension was justified. Lessons should also be learned from the use of suspension where the individual is later reinstated. The LADO and the school should consider how future investigations of a similar nature could be carried out without suspending the individual.

**Appendix I: LADO FLOW CHART (HSCB)**

**LADO FLOW CHART  
HALTON SAFEGUARDING CHILDREN BOARD'S LADO PROCEDURES SHOULD BE FOLLOWED**

**Agency receives information where it is alleged a member of staff has:**

- **Behaved in a way that has harmed, or may have harmed 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 would post a risk of harm**

