

SPECIALIST EDUCATION SERVICES

The Management of Allegations and Concerns Regarding the Professional Conduct of Adults in Relation to Child Protection: Policy and Practice

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1 **INTRODUCTION**

This document has been reviewed with reference to the updated DfE guidance, “Keeping children safe in education: Statutory guidance for schools and colleges”.

SES Ltd shares the same objectives stated in the above guidance, to help keep children safe by contributing to:

- providing a safe environment for children and young people to learn and live
- identifying children and young people who are suffering or likely to suffer significant harm, and taking appropriate action with the aim of making sure they are kept safe both within the home and education setting.

It is important that this policy and practice document is therefore read in conjunction with the following SES Policies:

- Safeguarding and Child Protection Policy and Practice
- Complaints and Representations Policy and Practice
- Children’s Welcome Guide
- Health and Safety Policy and Practice
- Positive Management of Behaviour Policy and Practice
- Policy and Practice for the Disclosure of Information in the Public Interest (Whistle Blowing)

SES Ltd is committed to safeguarding and promoting the welfare of children and young people and expects all staff and volunteers to share this commitment.

2 **RATIONALE**

Allegations of abuse by members of staff must be investigated within the correct Multi Agency Safeguarding Hub (MASH) procedures, and when dealing with any allegation against staff, it is vital to keep the welfare of the young person as the central concern. However, as with all child protection issues, a balance needs to be struck between supporting and protecting the young person and keeping the effects of possibly false allegations to a minimum.

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

Procedures outlined in this policy and practice document should be used in respect of all cases in which it is alleged that an adult has:

- behaved in a way that has harmed a child, or may have harmed a child;

- possibly committed a criminal offence against or related to a child; or
- behaved towards a child or children in a way that indicates s/he would pose a risk of harm if they work regularly or closely with children.

The procedures outlined in this policy and practice document will apply to allegations made against any adult working with or around children from SES in whatever capacity.

2.1 PRINCIPLES

All allegations must be reported straight away. In practice the duty DCM is likely to be the most immediate senior manager available, however the Head of Education, Head of Care or Registered Manager should be contacted without delay and they will liaise with the Principal. Should the Principal be the person about whom allegations have been made, the Directors should be informed immediately. Where a member of staff has a concern about the duty DCM they should contact the first port of call directly in absence of any other senior manager.

The procedures need to be applied with common sense and judgement. It is imperative that everyone who deals with allegations of abuse maintains an open mind, but that allegations are taken seriously.

The rights of the child and member of staff must be considered. However, where there exists a conflict of interest between the adult and the child, then the child's interests must be paramount as required by the Children Act 1989.

In investigating allegations, actions should be conducted in a way that recognises the vulnerability of staff and seeks to protect them as far as possible from mistaken or false allegations.

Investigations must be dealt with quickly, fairly and impartially. The member of staff should be informed about the allegation as soon as possible, [in consultation where necessary with Local Authority Designated Officer (LADO) in respect of timing and content].

2.2 SAFEGUARDING CHILDREN

SES is committed to safeguarding children, creating and maintaining a safe environment, and through the work with children, promoting resilience, by helping them to stay safe from harm, and encouraging them to speak up if they have worries or concerns.

Through their day-to-day contact with children, adults have a crucial role to play in noticing indicators of abuse or neglect and in referring concerns to the Lead Designated Person for Child Protection (Registered Manager).

In any environment where adults have intensive interactions with children, the opportunity to abuse them also exists. It is regrettably the case that, in rare circumstances, adults have been found to be responsible for child abuse. Given

their daily contact with children in a variety of situations adults are also vulnerable to accusations of abuse. Their relationships with children may lead to allegations being made against them by children, parents/carers or other adults. Those allegations may be false, malicious or misplaced and may be either deliberate or innocent of such intent. Regardless of the motives underlying any allegations, they may also be well founded, and should always be taken seriously.

As some allegations can arise through ignorance or ill-advised behaviour, SES provides thorough induction, training and comprehensive guidance for all adults on appropriate behaviour and boundaries in relation to working with children and young people.

2.3 LISTENING TO CHILDREN

The person to whom an allegation is reported by a child must:

- Listen to the child
- Not interrupt a child when recalling significant events
- Not make assumptions or interpretations
- Avoid asking questions, particularly leading questions
- Record all the information using the child's own words and note the time, context, who was present and what was said
- Sign and date the record, printing their name

'Listened to' means just that, **on no account** should suggestions be made to children as to alternative explanations for their worries. They should not be interrogated, i.e. asked repeated questions, but must be listened to and the written record made of the initial conversation as soon as practicable.

Staff should not promise confidentiality to children who make allegations. They should inform the child that they have a duty to pass information on in order to protect children but information will only be passed on a "need to know" basis. They should also be reassured that support will be made available to them.

2.4 PHYSICAL RESTRAINT

Where the allegation relates to the use of reasonable force to restrain a pupil (in accordance with "Use of reasonable force: Advice for headteachers, staff and governing bodies, July 2013" and the SES Positive Management of Behaviour Policy and Practice document) it will be appropriate for the Principal to deal with this at an establishment level. Systems are in place for the appropriate reporting, recording, monitoring, evaluation and discussion of incidents. An allegation of assault beyond the use of reasonable force would however need to be referred as a child protection matter.

3 PROCESS AND PROCEDURES

3.1 ACTION TO BE TAKEN BY A MEMBER OF STAFF WHO HEARS AN ALLEGATION OR HAS CHILD PROTECTION CONCERNS RELATING TO STAFF (AND VOLUNTEERS WHO WORK WITH CHILDREN)

All staff have a responsibility to report if they believe a member of staff is harming, or using unacceptable behaviour towards a child. Information may come to light about behaviour off site that could indicate a breach of acceptable professional conduct. Children (or a parent, carer or other) who report to any member of staff an incident of abuse or harm by a member of staff or other concern must be listened to and taken seriously. **Staff must immediately report their the concern or allegation (see 2.1 above).**

They **must not attempt to investigate the allegation**, but provide a full written account of what the child has said, this account should be dated and signed, and any original notes kept. Advice can be sought from the Lead Designated Person for Child Protection (Registered Manager).

If the concern/allegation is against the Registered Manager, the Principal must be informed immediately.

If the concern/allegation is against the Principal, the Directors must be informed immediately.

3.2 INITIAL CONSIDERATIONS

The procedures need to be applied with common sense and judgement.

In rare cases allegations will be so serious as to require immediate intervention by children's social care and/or police. Others may seem much less serious and on the face of it will not warrant consideration of a police investigation, or enquiries by children's social care.

The Principal must consider the allegation and determine the appropriate way forward. **Establishing whether an allegation warrants further investigation is not the same thing as deciding whether an allegation is well founded.**

Any allegation appearing to meet the criteria outlined in Section 2 and repeated below should be reported to the LADO the same day. That is in all cases in which it is alleged that an adult has:

- behaved in a way that has harmed a child, or may have harmed a child;
- possibly committed a criminal offence against or related to a child; or
- behaved towards a child or children in a way that indicates s/he would pose a risk of harm if they work regularly or closely with children.

The following definitions should be used when determining the outcome of

allegation investigations:

- a. **Substantiated:** there is sufficient identifiable evidence to prove the allegation;
- b. **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
- c. **False:** there is sufficient evidence to disprove the allegation;
- d. **Unsubstantiated:** this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
- e. **Unfounded:** there is 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;

These decisions are made in consultation with other professionals after the full investigation process.

There are some circumstances when an allegation may not require referral under child protection procedures, but if there is any doubt, the local authority designated officer (LADO) should be consulted.

If the allegation arises as a result of inappropriate behaviour or poor practice by a member of staff, this needs to be considered under SES disciplinary procedures and should be resolved without delay.

It is important to ensure that even allegations that appear less serious are seen to be followed up and taken seriously, and that they are examined via the formal complaints procedure.

The local authority designated officer (LADO) should be informed of all allegations that come to the Principal's attention and appear to meet the criteria outlined above, so that s/he can consult police and social care colleagues as appropriate.

The LADO should also be informed of any allegations that are made directly to the police (which should be communicated via the police force's designated officer) or to children's social care.

3.3 ACTION FOLLOWING INITIAL CONSIDERATION

Where the initial consideration decides that the allegation does not involve a possible criminal offence, the employer must deal with the matter. If the nature of the allegation does not require formal disciplinary action, the Principal will institute appropriate action within 3 working days.

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

Where further investigation is required to inform consideration of disciplinary action, the Principal will discuss with the LADO who will undertake the necessary action. In some circumstances it may be appropriate for the disciplinary investigation to be conducted by a person who is independent of SES.

The investigating officer should aim to provide a report to the employer within 10 working days. On receipt of the report of the disciplinary investigation, the Principal should consult with the LADO within 2 working days to decide whether a disciplinary hearing is needed. If such a hearing is required, it should be held within 15 working days.

Where Children's Social Care has undertaken enquiries to determine whether the child or children are in need of protection, the Principal should take account of any relevant information obtained in the course of those enquiries when considering disciplinary action. The LADO should continue to liaise with the Principal to monitor progress of the case and provide advice/support when required/requested.

In the case of the allegation being made against a supply teacher, or a contractor, or a volunteer from a voluntary organisation, SES may not be involved in disciplinary procedures, but will be involved and cooperate in an investigation. This investigation will reach a decision whether to continue to use the person's services, or to provide the person for work with children in the future, and whether to report to the Department for Education.

3.4 RECORD KEEPING

It is important that a clear and comprehensive summary of any allegations made be retained in the member of staff's confidential personnel file. This summary should include:

- details of how the allegations were followed up and resolved
- a note of any action taken
- decisions reached

A copy should be provided to the member of staff concerned. The summary should be retained at least until the member of staff has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

Details of allegations that are found to have been malicious should be removed from personnel records, unless the subject of the allegation asks that records be retained in order to prevent unnecessary re-investigation if, as sometimes happens, allegations resurface after a period of time.

3.5 REFERENCES

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

3.6 SUSPENSION

The Principal, in consultation with the Lead Designated Person for Child Protection (Registered Manager), will make a decision whether or not the member of staff should continue to work with children during the investigation. SES is mindful of the need to safeguard and protect children's welfare whilst also protecting the adult's right to protection against false allegation.

Suspension will be considered in any case where:

- there is cause to suspect a child is at risk of 'significant harm'
- the allegation warrants investigation by the police, or is so serious that grounds for dismissal are being considered.

Suspension will not be automatic; consideration will be made as to whether the result that would be achieved by suspension could be obtained by alternative arrangements. The power to suspend is vested in the Principal.

Suspension should not be the default position: an individual should be suspended only if there is no reasonable alternative.

Children's social care services or the police cannot require the Principal to suspend a member of staff or a volunteer, although they should give appropriate weight to their advice. The power to suspend is vested in the Principal, in consultation with the Directors of SES.

3.7 SUPPORTING THOSE INVOLVED

SES has a duty of care to its employees. We will act to manage and minimise the stress inherent in the allegations process. Support for the individual is key to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by the children's social care services or the police. The individual should be advised to contact their trade union representative, if they have one, or a colleague for support. They should also be reminded of their access to welfare counselling and/or advice.

Any member of staff facing an allegation will be offered a named 'support person' who is impartial to the investigation, where this is possible, and who can keep them informed of the progress on the case and support appropriately. A schedule of contact will be drawn up for use by the named contact person(s) and made available to the line manager.

Social contact with colleagues and friends should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence. This decision sits with the Principal.

Parents or carers of a child or children involved should be told about the allegation as soon as possible if they do not already know of it. However, where a strategy discussion is required, or police or children's social care services need to be involved, the investigating officer should not do so until those agencies have been

consulted and have agreed what information can be disclosed to the parents or carers. Parent or carers should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process.

The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but the parents or carers of the child should be told the outcome in confidence. Parents and carers should also be made aware of the prohibition on reporting or publishing allegations about teachers in section 141F of the Education Act 2002 (see below). If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice.

Any child/children making an allegation against a member of staff, will be offered a 'support person' from within SES who is impartial to the formal proceedings. Where the allegations are unfounded, the Principal will not necessarily take the view that the allegations were false. Behaviour may have been misinterpreted. In this case, the Principal will explore with the child's social worker whether there is a need for further discussion with the child. SES will continue to provide support to the child/children in these circumstances.

Where it is decided, on the conclusion of the case, that the person who has been suspended can return to work, the Principal should consider how best to facilitate that. Most people 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 Principal should also consider how the person's contact with the child or person who made the allegation can best be managed if s/he is to continue working with them.

3.8 CONFIDENTIALITY

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

The investigating officer should 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.

3.9 RESIGNATIONS AND 'SETTLEMENT AGREEMENTS'

Allegations must be investigated and concluded even in situations where a member of staff tenders their resignation.

It is important that every effort is made to reach a conclusion in all cases of

allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process. Wherever possible the person should be given a 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 regarded as substantiated on the basis of all the information available should continue even if that cannot be done or the person does not cooperate.

It may be difficult to reach a conclusion in these circumstances, and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

By the same token so called 'settlement agreements', (previously known 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, must not be used in these cases. A settlement agreement will not prevent a police investigation where that is appropriate nor does it override the statutory duty to make a referral to the DBS.

3.10 CASE SUBJECT TO POLICE INVESTIGATION

If a criminal investigation is required, the police will aim to complete their enquiries as quickly as possible consistent with a fair and thorough investigation and will keep the progress of the case under review.

A target date for the case review will be set. The review will include the progress of the investigation consultation with the Crown Prosecution Service (CPS). If the police and/or CPS decide not to charge the individual with an offence, decide to administer a caution, or the person is acquitted by a court, the police should wherever possible, aim to pass all information they have, which may be relevant to a disciplinary case, to the employer within 3 working days of the decision. In those cases, the employer and the LADO should decide how to proceed.

If the nature of the allegation does not require formal disciplinary action, the Principal will institute appropriate action within 3 working days. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days.

Any case in which Children's Social Care have undertaken enquiries which are relevant to a disciplinary case should also be passed to the Principal.

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

3.11 REFERRAL TO DfE/OFSTED/DBS

If upon conclusion of the case, SES ceases to use the person's services or the person ceases to provide his/her services, the Principal should consult the LADO regarding whether a referral to DfE/Ofsted or the Disclosure and Barring Service is required. If so, it should be made within 1 month.

3.12 DEALING WITH FALSE ALLEGATIONS

Where there is clear evidence that an allegation was deliberately invented or malicious, the Principal will consider whether any disciplinary action is appropriate against the child who made it.

Advice should be sought from the police regarding whether any action might be appropriate against the person responsible if he/she was not a child.

4 **REVIEW**

This document will be evaluated and reviewed within one year of its current date.

5 **APPENDICES**

Appendix A: Summary of Child Protection Allegation/Concern relating to

Appendix B: Table: What Is Acceptable Behaviour By Adults Towards Pupils?

Appendix C: Flow Chart: Steps Relating to Child Protection Allegations Against Staff or Adults Connected with the SES

Specialist Education Services

SUMMARY OF CHILD PROTECTION ALLEGATION/CONCERN RELATING TO:			
Name		Date	
<p>Explanatory statement</p> <p>This statement is made in accordance with Safeguarding Children and Safer Recruitment in Education.</p> <p>Under Paragraph 10, Record Keeping, there is a requirement to keep a clear and comprehensive summary of allegations, how the allegation was followed up and resolved, and a note of any action taken and decision reached. This should be kept on an employee's confidential personnel file, and a copy provided to the person concerned, and held centrally by the Allegations Manager (Schools and Education)</p> <p>The purpose of this record is to enable accurate information to be given in response to any future request for a reference should you move on. It will also provide clarification in cases where a future DBS Disclosure reveal information from the police about an allegation that did not result in a criminal conviction. It will also help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.</p> <p>This record should be retained at least until you have reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.</p>			
<p>Summary of Allegations Made:</p>			
<p>How Allegation Was Followed Up:</p>			

Outcome of Investigation*:	
Action Taken and Decisions Reached:	
Employee Comments:	
Signed by Line Manager	
Signed by LADO (if reached social care/criminal threshold)	
*Definitions:	
Substantiated	<i>A substantiated allegation is one where there is sufficient evidence to prove the allegation</i>
Unsubstantiated	<i>An unsubstantiated allegation means that there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.</i>
False	<i>This means that there is sufficient evidence to disprove the allegation.</i>
Malicious	<i>This implies there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive.</i>
Unfounded	<i>The term 'unfounded' means that there is no evidence or proper basis which supports the allegation being made, or there is evidence to prove that the allegation is untrue. There is the possibility that the allegation may be malicious (see below), but it might also indicate that the person making the allegation had misinterpreted the incident or was mistaken about what he/she saw, or was not aware of the circumstances.</i>
<i>(These definitions are taken from "Keeping Children Safe in Education" issued September 2016, with the exception of unfounded which is from the Norfolk LADO service guidance, issued March 2014).</i>	

WHAT IS ACCEPTABLE BEHAVIOUR BY ADULTS TOWARDS CHILDREN?

The table below provides some examples of types of behaviour and action to be taken. It is only intended as an illustrative guide and every situation must be considered on its own merits and assessed carefully in the context within which it occurs. **If in doubt consult.**

Category	Physical	Sexual	Emotional	Risk/Action
1. Acceptable behaviour Good professional practice	<ul style="list-style-type: none"> Appropriate reassurance, guidance and support within positive personal contact policy and guidance and positive management of behaviour policy and guidance Appropriate physical restraint within permitted limits, policy and guidance. Adhere to safe working practice guidance provided 	<ul style="list-style-type: none"> There can be no permissible behaviour which either implicitly or explicitly has sexual connotations Maintains professional relationship Appropriate language and attitude 	<ul style="list-style-type: none"> Pupils treated with dignity and respect No misuse of power Adhere to safe working practice guidance provided Appropriate response to child distress, sadness or upset within positive personal contact policy and guidance and positive management of behaviour policy and guidance 	<ul style="list-style-type: none"> NONE Praise and encourage staff
2. Inappropriate and unacceptable behaviour Poor professional conduct	<ul style="list-style-type: none"> Unjustified and/or questionable use of restraint Not adhering to all aspects of safe working practice guidance provided Use of inappropriate physical techniques not validated by training or policy and guidance 	<ul style="list-style-type: none"> Lack of proper regard for privacy. Inappropriate language Suggestive remarks, jokes, innuendo, etc 	<ul style="list-style-type: none"> Over-use of shouting Use of sarcasm or deprecating humour. Degrading behaviour Threats which fall outside positive management of behaviour policy and guidance, especially of a personal nature 	<ul style="list-style-type: none"> MEDIUM Consider disciplinary procedures
3. Abusive or potentially abusive behaviour	<ul style="list-style-type: none"> Persistent or repeated incidents of above Deliberate physical assault – e.g. punching, smacking, kicking, etc 	<ul style="list-style-type: none"> Persistent or repeated incidents of above Any overtly sexual contact-touching, grabbing, fondling Any sexual relationship with a pupil Overt sexualised comments or references 	<ul style="list-style-type: none"> Persistent or repeated incidents of above Persistent or repeated threatening, intimidating or degrading behaviour Bullying, racist comments, homophobic comments 	<ul style="list-style-type: none"> HIGH Consider disciplinary procedures Notification to or consult with external agency

Steps Relating to Child Protection Allegations Against Staff or Adults Connected with SES

