

Policy: Managing allegations against staff

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Contents

Version control	3
Application of this Policy	3
Relationship with DEMAT Values	3
Associated Policies and Documents	3
1. Purpose and Scope	4
2. Roles and responsibilities	4
2.1 All adults	4
2.2 Headteacher	4
2.3 Head of HR	5
2.4 CEO	5
2.5 Personnel Committee	5
2.6 Trust Board	5
3. Definitions	5
3.1 Low-level concern	5
3.2 Allegations	5
3.3 Case manager	6
4. Allegations and low-level concerns	6
5. Allegations reporting	6
5.1 Initial disclosure	7
5.2 Reporting the disclosure	7
5.3 Managing an allegation	8
5.4 Suspension	9
5.5 Strategy Meeting or decision by LADO	10
5.6 Information Sharing	11
5.7 Supporting those involved	11
5.8 Communications and confidentiality	12
5.9 Concluding an investigation	12
6. Record Keeping	13
6.1 References	13
7. Monitoring and review of allegations	13

Version control

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2.						
3.						

This document will be reviewed on an annual basis.

For all questions in relation to this policy please contact HR on hrteam@demat.org.uk

Application of this Policy

The policy is applicable to all employees, contractors and volunteers (permanent and temporary) of DEMAT, working on any or all of its locations, Academies or central offices.

Relationship with DEMAT Values

The application of this policy must be applied at all times in a way that reflects the values of DEMAT and our Christian Ethos:

Love – We engender love and tolerance between and for our staff, pupils, and others to foster an inspiring atmosphere of mutual support.

Community – We are committed to ensuring our Academies are a living part of the community and contribute positively to its needs.

Respect – We do everything to provide a caring, safe and secure place for our staff and pupils to be happy and respected in our Academies so they may achieve their potential.

Trust – We acknowledge accountability and responsibility for our actions and ensure that we encourage each other to make brave decisions and then learn from any mistakes.

Ambition – We are determined that our Academies offer a place for the joy of learning, enabling those of all abilities to thrive and go on to lead rewarding lives

Associated Policies and Documents

This Policy/Procedure should be read in conjunction with the following DEMAT Policies/Procedures:

- Safeguarding and Child Protection Policy
- Low Level Concerns Policy
- DEMAT Code of Conduct for all Adults
- Whistleblowing Policy
- Disciplinary Policy

1. Purpose and Scope

The purpose of this policy is to outline how DEMAT will manage any safeguarding allegation made or discovered against any member of staff, contractor or volunteer working on DEMAT premises. In having a robust, transparent and clearly communicated policy, with appropriate reporting and monitoring mechanisms, the Trust will ensure every registered pupil at a DEMAT Academy is safe and protected from harm in line with Keeping Children Safe in Education 2022.

Everyone who comes into contact with children and their families has a role to play in safeguarding children, this includes identifying concerns early and providing help for children to prevent concerns from escalating. When concerned about the welfare of a child, staff members must always act in the best interests of the child.

This policy sets out the aims, purpose, and ethos of managing safeguarding allegations across the Trust, and the roles & responsibilities of Trust staff, contractors and volunteers.

The objectives of the policy are to:

- Support the Trust's overall aim to create and maintain a safe learning environment where all children and adults feel safe and valued and know they will be listened to and taken seriously
- Provide a framework for Academies to implement safeguarding and child protection procedures in conjunction with our Safeguarding, Code of Conduct and Low-Level Concerns policies
- Ensure that there are effective procedures in place to deal with safeguarding and child protection allegations which arise
- Ensure that matters are dealt with fairly and consistently

2. Roles and responsibilities

2.1 All adults

All adults (employees, volunteers and visitors) are responsible for understanding policies and procedures applicable to them in the course of their time on Academy premises, including those relating to safeguarding children and KCSIE 2022. They are responsible for reporting any concerns or disclosures to the Headteacher, or the CEO if they are about a Headteacher or member of the central team, without delay and in compliance with this and the Low-level concern policy.

They are also responsible for asking questions about any areas where they are unsure or need further clarification.

2.2 Headteacher

The Headteacher, supported by the Designated Safeguarding Lead (DSL) or Deputy DSL (DDSL), if they are different, is responsible for ensuring this policy, along with the Safeguarding, Child protection and Low-level concern policies, are clearly communicated and understood by staff, contractors and volunteers.

In the event of an allegation in their Academy, they are responsible for ensuring this policy is followed, and they seek advice from the central HR representative if they are not sure.

2.3 Head of HR

The Head of HR is responsible for ensuring sufficient resource is available following a disclosure, and for ensuring the reporting of allegations is timely and accurate.

2.4 CEO

The CEO is responsible for ensuring sufficient resource is given to training and supporting case managers in managing allegations and ensuring that those individuals subject to allegations receive sufficient support whilst any matters are being investigated, irrespective of any disciplinary action they may face.

2.5 Personnel Committee

The Personnel Committee is responsible for reviewing the trust-level allegation data, high risk Academies and any individual matters which are reported as of concern.

2.6 Trust Board

The Trust Board is responsible for ensuring that the terms of reference of the Personnel and Audit & Risk Committees provide sufficient focus to cover the monitoring and assurance with regard to the implementation of the Allegations against Staff policy.

3. Definitions

In this policy certain key terms are used which are defined below:

3.1 Low-level concern

A Low-level concern can be defined as:

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 the Academy or Trust may have acted in a way that is inconsistent with the staff code of conduct, including inappropriate conduct outside of work and even if it does not meet the harm threshold or is otherwise not serious enough to consider a referral to the LADO.

3.2. Allegations

For the purposes of this policy, an allegation is a concern which is sufficient to justify referral to the Local Authority Designated Officer (LADO) defined as:

1. Instances where it is alleged that anyone working in the Academy/central team, including supply teachers, volunteers and contractors have:

- Behaved in a way that has harmed a child, or may have harmed a child and/or
- Possibly committed a criminal offence against or related to a child and/or
- Behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children; and/or
- Behaved or may have behaved in a way that indicates they may not be suitable to work with children; and/or

2. a pattern of Low-level concerns which collectively amount to an allegation of harm; and/or
3. other information which, when considered, leads to an allegation of harm. This information may be related to incidents which occur outside of the Academy but may have an impact on their suitability to work with children.

“Harm” should be considered to include sexual, physical, emotional abuse and neglect, incorporating both physical and mental health. This includes but is not limited to offences under the Sexual Offences Act 2003, grooming, grooming behaviour, possession of indecent photographs or sexual relations with a child under 18 if in a position of Trust.

This definition incorporates the provisions in KCSIE (Keeping Children Safe In Education,) 2022 part four, sections one and two.

3.3 Case manager

For the purposes of this policy the case manager will be the Headteacher or the CEO, the CEO may choose to appoint someone to the role of advisor to provide advice and support to those involved in any investigation such that it is consistent with DEMAT policy and procedure. The case manager shall determine if and when the Disciplinary Policy is to be pursued, and a formal investigation made, in respect of the conduct of any member of staff concerned

4. Allegations and low-level concerns

Adults (employees or volunteers) may become aware of concerns about another member of staff’s conduct or that of a volunteer or contractor. There are different ways to address concerns which can be considered ‘low-level’ and those which should properly be considered ‘allegations’.

The definitions of allegations and low-level concerns are set out above, and assist in determining whether the concern meets the harm threshold. This distinction can be made by the person to whom the allegation/low-level concern is reported. It does not have to be made by the member of staff who makes the disclosure, so all staff should feel comfortable to report any concerns. This may include incidents which fall short of the harm threshold but:

- Are accusations made second or third hand;
- Where the facts are not clear;
- Where the member of staff against whom an allegation or Low level concern has been raised this was not there at the time; or
- Where there is confusion about the account

5. Allegations reporting

An allegation, by definition, may be a disclosure by a child, an observed incident or other information made known at a different time.

This must be reported immediately to the Headteacher, or CEO if they concern a Headteacher or member of the central team. If they are not available, then the report must be made to the DSL and DDSL.

5.1 Initial disclosure

If the disclosure is made in person, by a child, to any member of DEMAT staff or volunteer, they should treat the matter seriously, keep an open mind but not take steps to deal with the situation themselves.

They should:

- Make a written record of the information (where possible in the child's own words), including the time, date and place of incident/s, persons present and what was said;
- Sign and date the written record and immediately report the matter to the Headteacher.
- If staff members are unsure, they should always speak to their Headteacher or in their absence the DSL/DDSL.

They should not:

- Investigate or ask leading questions if seeking clarification.
- Make assumptions or offer alternative explanations or diminish or embellish the seriousness of the behaviour or alleged incidents.
- Promise confidentiality, but they can give assurance that the information will only be shared on a 'need to know basis.'
- Take any action that might undermine any investigation or disciplinary procedure, such as disclosing confidential information, interviewing the alleged victim or potential witnesses, or informing the alleged perpetrator or parents/carers.

If the disclosure or information relates to the Headteacher, it must be referred to the CEO via hrteam@demat.org.uk.

If there is a genuine concern that appropriate action has not been taken following a disclosure, staff members can speak directly to a member of the HR team, via the whistleblowing phone number – 07958059403 – or email address whistleblowing@demat.org.uk.

If the disclosure is made in the form of a complaint pursuant to the DEMAT Complaints Policy, the complainant will be informed that the matter will be dealt with initially pursuant to this policy.

5.2 Reporting the disclosure

When the Headteacher or CEO is informed of a concern or allegation, as case manager they should:

- Obtain details of the concern / allegation;
- Record any information about times, dates and location of incident/s and names of any potential witnesses and or CCTV footage;
- Record the discussions about the child and/or member of staff, any decisions made, and the reasons for those decisions.

This should be seen as gathering the minimum of information to make a decision on making a referral to the LADO and providing them with sufficient information to have a full picture of the matter.

Whilst not impacting the decision to refer to the LADO, the following information should be considered when discussing the matter with the LADO. The list is not exhaustive:

- Was the incident a disproportionate or inappropriate response in the context of a challenging situation?
- Where the incident involved an inappropriate response to challenging behaviour had the member of staff had training in managing this?
- Does the member of staff understand that their behaviour was inappropriate and express a wish to behave differently in the future?
- Does the child or family want to report the incident to the police, or would they prefer the matter to be dealt with by the employer?
- Have similar allegations been made against the employee – is there a pattern developing?

The LADO should be informed as soon as possible, and in any case, within one working day when any concerns or allegations appear to meet the 'threshold' in the definition of an allegation at 3.2.

A referral to the LADO should be made prior to any detailed investigation taking place, and should not be delayed if the concern or allegation meets the threshold from the information already gathered.

All information gathered at this stage should be recorded on CPOMS.

If, on gathering the initial information, the concern or allegation does not meet the harm threshold in 3.2, they should consider whether the incident should be dealt with under the Low-level Concerns policy or as a disciplinary matter.

5.3 Managing an allegation

In making a referral to the LADO, the case manager should ask for support from a member of the HR team during the initial referral. This is because any allegations against a member of staff has the potential to constitute action under the Disciplinary policy and any/all steps need to take this into account..

The purpose of an initial discussion/communication is for the LADO and the case manager to consider the nature, content and context of the allegation and agree a course of action. It also alerts LADO about cases that may also reach them via another route, for example if the parent goes straight to the police allowing the LADO to have as full a picture as possible. This is also an opportunity for the LADO to establish whether the allegations or conduct could meet the criminal threshold, and other external agencies may be involved.

The LADO may ask additional questions of the case manager such as;

- Details of any previous complaints;
- Any adult witnesses;
- Any child witnesses;
- Any noted injuries;
- Any tensions between staff and parents, and;
- A clear idea of the time and location of when issues may have occurred.

This initial sharing of information and evaluation may lead to a decision that the LADO does not believe any further external action is required in their view. In this case this decision and a

justification for it should be recorded on CPOMS. All information should be documented, including the agreement reached as to what the individual concerned can be informed of and by whom.

In this instance, the case manager must discuss with the central HR representative whether the conduct gives sufficient concern that warnings or disciplinary action should be taken under our Low-level concerns or Code of Conduct. This should be clearly documented in the CPOMS report as a follow up action.

The case manager and the HR representative should agree the communications to the person about whom the allegation has been made as soon as possible after consulting the LADO. It is extremely important that the case manager provides them with as much information as possible at that time.

If the LADO decides a further strategy discussion or Allegation Management Meeting (AMM) is required, to which the police or social services may be invited or otherwise involved, the case manager should not share information about the allegation with the person about whom the allegation has been made until that meeting has taken place, or unless otherwise agreed with the LADO.

The LADO will advise the case manager whether informing the parents of the child/ren involved will impede any relevant investigation processes. Acting on this advice, if it is agreed that the information can be fully or partially shared, the employer should inform the parents or carers. In some circumstances, however, the parents or carers may need to be told straight away (e.g. if a child is injured and requires medical treatment).

5.4 Suspension

A decision to suspend an employee of the Trust pursuant to the Disciplinary Policy will usually be made by the line manager of the person in consultation with the case manager, and in all circumstances, sit within the delegated authority in the Trust scheme of delegation.

The decision may be taken following the recommendation from the LADO, or based on an assessment of the initial information, the type of role the employee undertakes and what adaptations might reasonably be made. In all cases, the decision rests with the line manager, or an equivalent role with delegated authority in the scheme of delegation and will be taken in accordance with the Disciplinary Policy.

It should be made as soon as is reasonably possible after the allegation has been made, the LADO has provided advice and the case manager has discussed it with the central HR representative and the line manager.

Suspension should not be considered a default option, but if used the reasons and justification should be recorded via a suspension risk assessment and the individual notified of the reasons.

An assessment might include the following alternatives to suspension:

- redeployment within the Academy so that the individual does not have direct contact/unsupervised access to the child/children;
- temporary redeployment to an alternative DEMAT Academy;
- ensuring the individual is accompanied/assisted when the individual has contact with the child/children.

The decision to suspend should be reviewed as circumstances change, the risk assessment updated and the individual informed as soon as possible.

Any decision on lifting the suspension should be taken in line with the Disciplinary Policy.

5.5 Strategy Meeting or decision by LADO

If the LADO advises a strategy meeting is required, the attendees will normally include:

- the LADO or their representative;
- Headteacher;
- Central HR team representative.

They may include the police and/or other third-party services as requested by LADO depending on the circumstances.

The purpose of the meeting is to ensure all parties have a full picture of the circumstances and can agree appropriate next steps and communications.

If the LADO determines with or without a meeting that the allegation does not involve a possible criminal offence, it should be dealt with by the Academy in line with DEMAT policies around such conduct.

If the strategy meeting decides the criminal threshold has been breached, and a police investigation is required, the Academy will cease any action until investigations by the LADO, police or other third party services are complete. In these circumstances, the Academy may be asked to support information gathering.

Any protocols for communications will be agreed with the LADO along with the support to be provided to the member of staff, or others who may be affected. This will include how they will be kept up to date with progress.

5.6 Dealing with an Allegation within DEMAT

If the matter does not require formal disciplinary action, alternative appropriate action should be actioned within 5 working days. Any and all action will be taken with advice and support from the central HR representative.

If the case manager, in consultation with the central HR representative, concludes formal disciplinary action is required, all action will be taken in line with the DEMAT Disciplinary Policy, including appointing an independent Investigating Officer (IO) to conduct a thorough, objective investigation into the allegation.

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

- **Substantiated:** there is sufficient evidence to prove the allegation
- **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive.
- **False:** there is sufficient evidence to disprove the allegation.
- **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

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

If an allegation is determined to be malicious this may warrant disciplinary against any employee who raised the concern.

Where the matter has been disclosed pursuant to the Complaints Policy, the case manager may determine the appropriate response to be made to the complainant pursuant to that policy as and when that becomes possible, seeking advice from the Central team as appropriate.

5.6 Information Sharing

Although it is important that matters remain confidential (para 5.8) , for the purposes of an effective strategy discussion or the initial evaluation of the case, the parties involved should share such relevant information as they have about the person who is the subject of the allegation, the alleged victim and the subject matter of the concern or allegation.

Information sharing is vital in identifying and tackling all forms of abuse and neglect, and in promoting children's welfare, including their educational outcomes. GDPR does not prevent the sharing of information for the purposes of keeping children safe. Fears about sharing information must not be allowed to stand in the way of the need to safeguard, promote and protect the welfare of children.

If statements are obtained from individuals by a third party, including the police, which may be required in any DEMAT disciplinary process, wherever possible, the case manager or central HR representative should ask the third party to obtain consent from the individuals to share their statements and evidence for use by the Trust.

5.7 Supporting those involved

The Trust recognises that allegations and investigations into allegations can be stressful and cause anxiety for all involved. The Trust has a duty of care to minimise this for employees to the extent possible and be mindful of their well-being. Staff should be informed of concerns or allegations as soon as possible unless advised otherwise by the LADO/third party and be given access to appropriate support in line with the DEMAT values.

Arrangements will be made for an employee the subject of an allegation to be made aware of the progress of the matter and give them information on other support that may be appropriate. In the instance that an individual is suspended, these updates will need to include the progress of their case and current work-related issues.

The Trust encourages any individuals who find themselves the subject of an allegation to seek support from their union and in some instances, the Trust may also suggest support is provided by a designated employee or third party. The Trust reserves the right to prevent contact with other members of staff if there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

5.8 Communications and confidentiality

At all stages of an allegation, from initial disclosure, through to conclusion of any disciplinary proceedings, it is crucial that every effort is made to ensure confidentiality is maintained for the protection of those involved. Initially, information should be shared on a 'need to know' basis, and if subsequent LADO involvement is necessary, in line with what has been agreed with them.

If there is any uncertainty around what can be communicated or disclosed about the matter, advice should be sought from the case manager in the first instance. They may recommend further advice be sought from the LADO, but will retain responsibility for decisions around internal communications and confidentiality.

The case manager will also engage the support of DEMAT central communications to agree:

- How to manage speculation and or breaches of confidentiality;
- How to manage press interest if it should arise; and
- What, if any, information can be given to the wider community.

This is to ensure that any communications issued by the Academy/central team are compliant with the reporting restrictions that prevent the publication of any material that may lead to the identification of a teacher who has been accused by, or on behalf of, a pupil from the same Academy. These restrictions apply until the point that a person is charged with an offence.

5.9 Concluding an investigation

If the allegation is substantiated, the Trust will determine whether they are obliged to refer the matter to the Disclosure and Barring Service (DBS) for consideration of inclusion on the barred lists and /or (for teachers) a referral to the Teaching Regulation Agency (TRA).

The fact that a person tenders his or her resignation or ceases to provide their services will not prevent the matter being referred to either agency.

A referral will be made where an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child or if a person otherwise poses a risk of harm to a child. In such circumstances, the duty to refer an individual to the DBS arises where an employer has removed the individual from relevant work with children or the person has chosen to cease relevant work in circumstances where they would have been removed had they not done so. The DBS will consider whether to bar the person from working in regulated activity, which will include work in all educational establishments. We have a statutory duty to refer and to provide relevant information to the DBS and TRA. Referrals should be made as soon as possible after the resignation or removal of the member of staff involved or if ceasing to use the person's services

No settlement agreement by which the Trust, as employer, agrees not to pursue disciplinary action or report the matter to the DBS or TRA, will be used in cases where it is still possible that the harm threshold may be found to have been met.

6. Record Keeping

It is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, a note of any action taken, and decisions reached, will be kept on a person's confidential employee file, and a copy provided to the person concerned.

Clear records will enable accurate information to be given in response to any future request for a reference and provide clarification in cases if future DBS Disclosures 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 an allegation re-surfaces after a period of time. Details of allegations that are found to have been malicious should be removed from an employee's file.

The record should be retained at least until the person has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

6.1 References

The only allegations included in references will be those found to be substantiated, where the information is factual and does not contain opinions. Advice should always be sought from the DEMAT HR team where this is required.

This remains the case even if there have been multiple allegations, all of which have been found to be unsubstantiated, malicious etc.

7. Monitoring and review of allegations

All allegations will be recorded in CPOMS, including any follow up actions, which may include disciplinary investigations. The investigation/outcome is not to be recorded in detail in CPOMS. The Headteacher/CEO is responsible for reviewing the CPOMS records each month and ensuring all follow up actions have been completed.

This review should be conducted in parallel with the low-level concerns review so any patterns, trends or links between the two can be identified. This will help at an Academy and Trust level if there are wider cultural/behavioural issues which require further training or support to improve.

Each month the number of allegations in each Academy will be reported to the CEO via the HR reporting prepared by the Head of HR, including a broad categorisation of the type, so that any wider gaps in training or support can be identified and addressed.

These reports will be made available to the Personnel Committee, and any action taken under the Disciplinary policy will fall within the normal reporting cycle.