

MANAGING ALLEGATIONS OF A
SAFEGUARDING NATURE
PROCEDURE

Managing Allegations of a Safeguarding Nature Procedure

Policy Owner: Resources Committee
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Applicable to students: Yes

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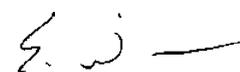
Consultation:

Undertaken with:	Yes/No:	Date:
Board/Committee	Yes	Board – 07/07/2022 Resources - 05/05/2022
ELT	Yes	25/11/2021
CMT	No	
Unions	Yes	08/06/2022
Students	No	
Employees	No	
Employers/Stakeholders	No	

Any Associated Documentation, for Reference:

Safeguarding, Child Protection and Prevent Policy; Keeping Children Safe in Education; Staff Behaviour Code; Disciplinary Policy and Procedure; Safeguarding Harm Test; DBS Referral Regulations

ELT SIGN-OFF: Simon Nixon, Executive Director Resources



MANAGING ALLEGATIONS OF A SAFEGUARDING NATURE PROCEDURE

1. Policy Statement

- 1.1 Part Four of KCSIE deals with allegations made against/concerns raised in relation to any authorised personnel working with Preston College learners who are under the age of 18 years. The guidance requires the College to have procedures for dealing with concerns and/ or allegations against those working in or on behalf of the College in a paid or unpaid capacity. This includes volunteers and contractors.
- 1.2 Part Four of KCSIE is split into two sections:
 - a. Section One deals with allegations that may meet the harms threshold; and
 - b. Section Two deals with concerns that do not meet the harm threshold.
- 1.3 Preston College recognises its statutory and moral duty to promote and secure the welfare of its learners; adopting a risk based approach to safeguarding, which assures the highest possible level of safety for learners and the most positive impact on learning.
- 1.4 1.5 This procedure provides an outline of the values and principles the College will follow in performing its statutory duty under Part Four of KCSIE.
- 1.5 The fundamental values and principles contained in this procedure and associated policy for managing concerns or allegations of abuse made against staff who work with children, young people or vulnerable adults include:-
 - a. that the welfare of the child/young person is paramount;
 - b. to minimise the potential for a protracted risk of harm to the child/ young person by the alleged perpetrator;
 - c. that the Designated Safeguarding Lead (DSL) is responsible for ensuring that the child/ young person is not at risk and will take a lead when concerns or allegations of a safeguarding nature are first reported;
 - d. the DSL is responsible for referring cases of suspected abuse to the local authority children's social care through the Local Authority Designated Officer (LADO);
 - e. the DSL will undertake the harm test and where there is cause to suspect suffering or a likelihood of suffering the DSL will request a strategy meeting involving the police and/or children's social care through the LADO;
 - f. the DSL will inform the Head of Human Resources (HOHR) about the matter once steps have been put in place to minimise continued harm to the child/ young person;
 - g. the HoHR will take on the role of Case Manager and be the point of contact with LADO in relation to the alleged perpetrator;
 - h. the HoHR will appoint an Investigating Officer;
 - i. the HoHR will assign a member of the Human Resources Department to support the person subject to the concerns/ allegation;
 - j. where it is clear that an investigation by the police or children's social care is unnecessary, or the strategy discussion or initial assessment decides that is the

- case, the LADO should discuss the next steps with the HoHR as the Case Manager;
- k. where the individual is not directly employed by the College, the HoHR as Case Manager will act as the point of liaison between the employing agency, LADO, police and/ or children's social care;
 - l. suspension should not be an automatic response when a concern or allegation is reported;
 - m. the College has a duty of care to both the child/ young person and the individual against whom the concerns/ allegations have been made;
 - n. the College will not cease investigations if the alleged perpetrator leaves or ceases to provide their services;
 - o. the College will make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered;
 - p. the HoHR shall take advice from the LADO, police and children's social care to agree who needs to know and the exact information that can be shared;
 - q. the HoHR will take advice from the LADO, police and children's social care to agree how to manage speculation, leaks and gossip;
 - r. the College will support the return to work of an individual against whom unfounded, unsubstantiated, malicious or false allegations have been made;
 - s. Where the allegation/ concern is founded, the HoHR will make a referral to the DBS for consideration of whether inclusion on the barred list is required.
- 1.6 In implementing this procedure, the College will ensure that any personal data relating to the application of this procedure will be obtained, processed and destroyed in line with the principles outlined in the UK Data Protection Regulation and supplementary enacting Data Protection Legislation. The College is committed to being transparent about how it collects and processes the personal data of its learners, employees, visitors and other stakeholders to meet its data protection obligations. The College will ensure all processing is lawful, fair and transparent and individuals are informed of the legal basis for processing their data. Further information relating to the College's compliance of the UK Data Protection Regulation can be found in the College's Data Protection Policy.

2. Scope

- 2.1 The underpinning values and principles of this procedure apply to all College employees, casual workers, agency workers, self-employed, volunteers and contractors working in a paid or unpaid capacity regardless of their length of service or hours worked.

3. Purpose

- 3.1 The purpose of this procedure is to outline the duty of care the College has to its learners and employees in the following circumstances:
- Where a staff member whether paid or unpaid may have behaved in a way that has harmed a young person / vulnerable adult;
 - Where a staff member has possibly committed a criminal offence against or related to a young person / vulnerable adult; or

- Where a member of staff has behaved towards a young person / vulnerable adult in a way that indicates that they would pose a risk of harm if they work regularly or closely with young people / vulnerable adults.
- 3.2 The College will ensure that effective support is provided for anyone facing an allegation. The allegation will be dealt with quickly, in a fair and consistent way that provides effective protection for the child / young person / vulnerable adult as well as supporting the individual who is the subject of the allegation. It will also make every effort to maintain confidentiality and avoid any unwanted publicity whilst an allegation is being investigated or considered.

4. INITIAL ASSESSMENT

- 4.1 If a member of staff has a concern about another member of staff's conduct, or they receive an allegation of abuse from a learner, it is extremely important that this information is kept confidential and not discussed with other work colleagues, including the Human Resources Department.
- 4.2 Whenever an individual discloses a situation of abuse, staff have a legal obligation to pass this information on to the Designated Safeguarding Lead (DSL). If the DSL is not available at the time, the information should be passed to the Lead Designated Safeguarding Lead (LDSL).
- 4.3 If a member of staff has any concerns regarding learner peer on peer sexual violence and sexual harassment that has happened inside or outside of College, or online, staff have a legal obligation to pass this information on to the Designated Safeguarding Lead or to one of the safeguarding deputies.
- 4.4 Staff are required to record the factual details of what they have been told (statements must be written) and forward this to the DSL without delay. No copies should be made of this statement.
- 4.5 The DSL will make an initial assessment of the allegation and decide whether or not it meets the criteria in section 4.6. If it does not, the case should be considered under the College's Disciplinary Policy and Procedure, as appropriate and the matter referred to the Head of Human Resources.
- 4.6 The initial assessment should consider the following points:
- The seriousness and nature of the allegation;
 - The risk to the young person or vulnerable adult;
 - The risk to the member of staff concerned;
 - The consideration of suspension in accordance with the College's Disciplinary procedure.
- 4.7 Where the allegation is found to be false following an initial assessment, the case will be dismissed.

4.8 If appropriate following the initial assessment, the DSL will need to inform, the LADO (Local Authority Designated Officer) so that they can consult with police or Children's Social Care as appropriate.

4.9 The LADO should always be contacted whenever:

- A crime has (or may have) been committed;
- The young person or vulnerable adult has suffered or is likely to suffer harm;
- Uncertainty or lack of clarity about whether it is a safeguarding matter remains;
- There are physical marks or injuries;
- Allegations made are sexual in nature;
- The potential safeguarding matter is brought to the organisation's attention by an 'outside' person or agency

5. SAFEGUARDING ENQUIRIES

5.1 Safeguarding enquiries by the LADO or the police take precedent over any internal disciplinary proceedings undertaken by the College. An internal investigation should not be held where LADO or the police are involved until the College is advised that they can proceed internally.

5.2 Where the allegation has been deemed not to be of a safeguarding nature by LADO, the College may delay its own enquiries if a formal police investigation is underway.

5.3 The police may act independently of the College particularly where the allegation is unconnected to the member of staff's professional life. The police may wish to interview other members of staff to enable them to gather the evidence or they may request equipment.

5.4 The College may be able to use the outcome of external agency enquiries as part of its own procedures.

6. SUSPENSION OF STAFF

6.1 Preston College will consider carefully whether the circumstances of a case warrant a staff member being suspended from contact with young people at the college or whether alternative arrangements can be put in place until the allegation is resolved. Where appropriate, options to avoid suspension will be considered.

6.2 If deemed necessary suspension may be carried out at any stage of the investigation. Suspension is a neutral act and not a disciplinary sanction and any periods of suspension will be on full pay and regularly reviewed. Full guidance is available in the College's Disciplinary Policy and Procedure.

6.3 The member of staff will be invited into a meeting by the Suspension Manager and informed that an allegation has been made and that consideration is being given to suspension. The employee can be represented by a Trade Union representative or accompanied by a work colleague where there is no unnecessary delay.

- 6.4 It should be made clear that the meeting is not a formal disciplinary hearing, but solely for raising a serious matter which may lead to suspension and further investigation.
- 6.5 During the meeting the Suspension Manager will provide the member of staff with as much information as possible, in particular the reasons for any proposed suspension, provided that doing so would not interfere with the internal investigation or any police investigation into the allegation. The meeting is not intended to establish the member of staff's innocence or guilt, but provide the opportunity for the member of staff to make representations about possible suspension.
- 6.6 Suspension of the staff member(s) will not be automatic. The Principal, in conjunction with Human Resources will need to consider:
- The details of the alleged incident;
 - Whether a young person/vulnerable adult is at risk;
 - Whether suspension is necessary for the good and efficient conduct of the investigation;
 - Any relevant information obtained in the course of the enquiry;
 - If the allegation warrants investigation by the police;
 - The risks to the College, individuals and students;
 - Consideration of alternatives to suspension;
 - Consultation with LADO and / or police.
- 6.7 Where the Principal is of the view that an allegation may constitute serious or gross misconduct, the Principal may agree to the suspension of a member of staff from duty pending an investigation which may lead to a formal disciplinary hearing.
- 6.8 If suspension is recommended, the Suspension Manager in conjunction with the Human Resources Department will suspend the individual.
- 6.9 In respect of the Principal, or other Senior Post Holders, suspension can only be carried out by the Chair of the Governors (or in their absence, the Vice Chair).
- 6.10 The member of staff shall be informed that they are suspended from duty. Written confirmation of the suspension will either be provided at the meeting or sent as soon as possible after the event. This will also detail the right to appeal the suspension.
- 6.11 The suspension will remain under review in accordance with the Disciplinary Procedure.

7. INVESTIGATION

- 7.1 Where a further disciplinary investigation is required to establish the facts, an investigating manager will be assigned.
- 7.2 Where the allegation is made against the Senior Post Holder, reference needs to be made to Appendix 4 (Senior Post Holders) of the Disciplinary Procedure and the terms of reference for the Special Purposes Committee.

- 7.3 In any case where a disciplinary offence has occurred involving a Senior Post Holder the preliminary investigation shall be carried out by the Principal except in any case involving the Principal when the Investigating Manager shall be a person (or a group of persons, in which case the following references to a person or a member shall be construed in the plural) nominated by the Chair of the Corporation. Such a person might be a person external to the College or could be a member of the Corporation (other than a staff or student member).
- 7.4 The Investigating Manager will aim to conduct the investigation and provide an investigation report without unreasonable delay.
- 7.5 Following the outcome of the investigation, the Principal or Investigating Manager will consult with the Head of HR who may also consult with LADO if required, to decide what appropriate action to take. Please refer to the Disciplinary Policy and Procedure for additional guidance.
- 7.6 The following definitions will be used when determining the outcome of allegation investigations. Malicious or false allegations may be determined at the outcome of the investigation, by the investigating manager. Substantiated, unfounded or unsubstantiated allegations may be determined at the conclusion of a disciplinary hearing:

Substantiated; there is sufficient evidence to prove¹ 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;

Unfounded; 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.

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

8. ALLEGATIONS WITHOUT FOUNDATION

- 8.1 False allegations may be indicative of problems of abuse elsewhere. A record should be kept and consideration given to a referral to the LADO in order that other agencies may act upon the information.
- 8.2 In consultation with HR, the Investigating Manager will:

¹ For the purposes of this procedure, the definition of prove is on the balance of probability.

- Write a formal report outlining the allegation and giving reasons for the conclusion that it had no foundation and confirming that the above action had been taken.
- Ensure that a formal response has been sent to the member of staff against whom the allegation is made without undue delay, orally and in writing, that no further disciplinary or safeguarding action will be taken.
- Ensure the parents / carers of the young person/vulnerable adult that the allegation has been made and of the outcome reached.
- Where the allegation was made by a young person/vulnerable adult, other than the alleged victim, consideration should be given to informing the parents/carers of that individual.
- In the case of a false allegation, all details will be removed from personnel records.
- Cases in which an allegation was proven to be false, unsubstantiated or malicious will not be included in employer references.
- The person making malicious allegations made may be investigated through the College's Disciplinary Policies and Procedures
- In the case of a malicious allegation, the member of staff will have access to a Human Resources contact. Support provided by the HR contact may include a referral to Occupational Health.

9. SUBSTANTIATED ALLEGATIONS

- 9.1 There is a legal requirement for the College 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 young person or vulnerable adult; or if a person otherwise poses a risk of harm to a young person or vulnerable adult.

10. RESIGNATION DURING AN INVESTIGATION

- 10.1 There may be occasions where referrals are required to be made to the Disclosure and Barring Service when the employee leaves before the case has been heard. The individual will be informed prior to the referral being made and will have an opportunity to make representations prior to the referral being sent.