

Date ratified at
Directors Meeting
20 March 2018

Review
Resources Committee

St John the Baptist



Catholic Multi Academy Trust

THE MAT MISSION STATEMENT

Our family of schools is united in the belief that God's love, peace, truth, and joy is for all. We are dedicated to the achievement of excellence in all we do. We cherish the uniqueness of each of our school communities and celebrate together as one Trust family. By following Jesus' example we bear witness to the greatness of God.

'To think, to feel, to do' Pope Francis

St John the Baptist Catholic MAT
Company No: 7913261
Registered Office: Surrey Street, Norwich NR1 3PB

ALLEGATIONS OF ABUSE AGAINST STAFF POLICY



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St John the Baptist Catholic MAT Allegations of Abuse against Staff Policy

Introduction

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

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

We hope that having a clear policy outlined will help pupils to feel comfortable that they can voice concerns about any member of staff. Allegations will be reported to the Headteacher immediately or to the Local Chair of Governors where the Headteacher is the subject of an allegation, or to the Chair of Directors where a member of the Executive Team is the subject of an allegation. All allegations will be taken seriously and investigated immediately.

Purpose

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

This policy will be used in any case where it is suspected or alleged that a member of staff or a volunteer in the MAT or at a school has:

- behaved in such a way that may have harmed a child or may have intended to harm a child. The Safeguarding (incorporating Child Protection) Policy outlines what it means to harm a child
- acted outside of the law in relation to dealings with a child
- behaved in any way that suggests they may be unsuitable to work with children.

Timescale

It is imperative that allegations against staff are dealt with as quickly as possible to:

- minimise the risk to the child
- minimise the impact on the child's academic progress
- minimise stress to the employee concerned
- ensure a fair and thorough investigation for all parties.

To enable this to happen, all staff, parents, and pupils should be aware of the procedures set out in this policy.

Associated Policies and Procedures

Local Schools Safeguarding Policy

SJB CMAT Performance Management, Appraisal & Capability Policies and Procedures for Teachers or Support Staff

SJB CMAT Complaints Policy and Procedure

SJB CMAT Acceptable Usage Policy

SJB CMAT Data Protection Policy

SJB CMAT Code of Conduct Policy

SJB CMAT Whistle-blowing Policy

Local Schools Behaviour for Learning Policy

SJB CMAT Employee Disciplinary Procedures

SJB CMAT Contracts of Employment

SJB CMAT Grievance Procedures

Contents

1. Introduction	p2
2. Purpose	p2
3. Timescale	p2
4. Associated Policies and Procedures	p2
5. Reporting an allegation	p4
6. Initial consideration	p4
7. Investigation	p5
8. Supporting those involved	p5-6
9. Confidentiality	p6
10. Suspensions	p6
11. Resignations	p7
12. Record keeping	p7
13. Action on conclusion of the case	p7
14. After the case	p8
15. Appendix 1 Information Guide for Employees Facing Allegations	p9-10

Procedure

Reporting an allegation

All allegations made against staff should be reported immediately to the CEO or Headteacher. Should the initial allegation first be made to any other member of staff, then that member of staff must either request the person raising the allegation to report it to the CEO or Headteacher. Complaints about the Head teacher should be reported to the Chair of Governors. Complaints about the CEO or member of the Executive Team should be reported to the Chair of Directors.

Should the allegation meet any of the following criteria then the Head teacher, CEO, Chair of LGB or Directors should report the allegation to the Local Authority Designated Officer (LADO) the same day that the allegation is received:

- behaved in such a way that may have harmed a child or may have intended to harm a child. The Safeguarding (incorporating child protection) Policy outlines what it means to harm a child
- acted outside of the law in relation to dealings with a child
- behaved in any way that suggests they may be unsuitable to work with children.

Staff who are concerned about the conduct of a colleague towards a pupil are undoubtedly placed in a very difficult situation. They may worry that they have misunderstood the situation and they will wonder whether a report could jeopardise their colleague's career. All staff must remember that the welfare of the child is paramount and must report their concerns immediately.

Initial Consideration

The LADO will be contacted by the Headteacher and a discussion will take place to decide whether:

- more information is required; or
- no further actions are needed; or
- a strategy discussion should take place; or
- there should be immediate involvement of the police or social care.

There is no discretion for headteachers over whether or not to discuss such allegations with the LADO. The School or MAT will share available information with the LADO about the allegation, the child, and the person against whom the allegation has been made and consider whether a police investigation or a strategy discussion is needed. The Headteacher should not investigate the allegation at this stage. Representatives from other agencies may be invited to the discussion and could include representatives from health, social care and police.

Investigation

Suitable training with regard to undertaking investigations should be undertaken by the CEO, the Headteachers of the schools and ideally two other members of the Leadership Teams or equivalent.

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

Internal investigations must be second to any safeguarding investigation and may need to be delayed until the external investigation is complete.

Disciplinary action must not be taken before there has been an investigation into the circumstances.

The procedures used for any internal investigation will comply fully with the SJB CMAT's disciplinary and/or capability procedures for convening a formal investigatory interview, complying with communication requirements and time-scales for, for example, completing and providing a report, holding, where necessary, a disciplinary hearing, taking any appropriate disciplinary action and complying with the process for appeals.

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

- **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.

Where the initial consideration decides that the allegation does not involve a possible criminal offence, it will be for the Headteacher to deal with it. In such cases, if the nature of the allegation does not require formal disciplinary action, the Headteacher should institute appropriate action within three working days.

Supporting those involved

Supporting the parents/carers

Parents and carers will be notified if their child makes or is involved in an allegation against staff if they do not already know. However, if the police or social services are to be involved, they will be contacted first and will advise as to what information may or may not be disclosed to the parents. There will be a staff member designated to the role of liaising with the parents and child about the case and ensuring that they are fully informed as far as is possible. Parents and carers will be made aware of any progress in the investigation, and where there is no criminal prosecution, the outcome will be explained to them. This may be a disciplinary outcome. During a disciplinary hearing the deliberations and information used for making a decision are usually confidential, but parents should be told the outcome in confidence.

Social services and the police may be involved and will provide the school with advice on what type of additional support the child may need.

Supporting the person(s) who makes the allegation

The SJB CMAT's Whistleblowing Policy enables staff to raise concerns or allegations against their colleagues in confidence and for a sensitive enquiry to take place.

Supporting the employee

The SJB CMAT has a duty of care to its employees and will do everything to minimise the stress of any allegation and the disciplinary process. Support for the individual is key to fulfilling this duty.

The person who is the subject of the investigation will be informed as soon as possible and usually after the initial discussion with the designated officer. The employee will then be advised on what the next course of action will be. However, if the police or social services are to be involved, they will be contacted before the employee, and will advise as to what information may be disclosed to the person under investigation. The CEO, Headteacher or a named representative will keep the employee informed of the progress of the case and any other work-related issues.

The employee may need additional support and the SJB CMAT will consider what might be appropriate to best accommodate this. The individual should be advised to contact their trade union representative, if they have one, or a colleague for support. They could also be given access to welfare counselling or medical advice. Particular care needs to be taken when employees are suspended to ensure that they are kept informed of both the progress of their case and current work related issues. Social contact with colleagues and friends must not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence. If it is a criminal investigation and the police are involved, they may provide this additional support.

Confidentiality

The SJB CMAT will make every effort to guard the privacy of all parties during and after an investigation into an allegation. It is in everyone's best interest to maintain this confidentiality to ensure a fair investigation with

minimum impact for all parties. However, there may be a need to share information with relevant agencies, for example at a strategy meeting, on a need to know basis. Any enquiries from the press should be directed to the head teacher and chair of governors / Directors, unless it is a freedom of information or data protection request in which case the SJB CMAT HR Business Partner or legal representative should be contacted. A breach of confidentiality will be taken seriously and may warrant its own investigation.

Suspensions

The SJB CMAT will not suspend a member of staff without serious consideration, and will not do it automatically once an allegation has been made. Depending on the nature of the case, it may be possible that alternative arrangements are made so that the individual can continue working. For example, redeployment so that the individual does not have direct contact with the child concerned, or providing an assistant to be present when the individual has contact with children. This allows time for an informed decision regarding the suspension and possibly reducing the initial impact of the allegation. This will however, depend upon the nature of the allegation. The SJB CMAT should consider the potential permanent, professional and reputational damage to teachers that can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended.

In the case of employees other than the Head teacher, the Head teacher will normally take the decision to suspend. In the case of the suspension of the Head teacher, the Chair of Governors will take this decision. In the case of the suspension of a member of the Executive Team, the Chair of Directors will take this decision. In either case the SJB CMAT will listen to the views of the police and or social care regarding suspension. The Headteacher should, where possible, consult the employee before the decision to suspend is taken.

In the case of suspension, the employee will receive written confirmation within one working day and will be informed of the reason for the suspension. The person should be informed at that point who their named contact is within the organisation and provided with their contact details. This contact person will not be involved in the investigation in any way.

Local authority children's social care services or the police cannot require the SJB CMAT to suspend a member of staff or a volunteer, although the SJB CMAT should give appropriate weight to their advice. The power to suspend is vested in the CEO, Headteacher or the Chair of Governors or Directors who are the employers of staff at the School. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by the local authority social care services and/or an investigation by the police, the LADO should canvass police and the local authority children's social care services for views about whether the accused member of staff needs to be suspended from contact with children and to inform the School & MAT about the consideration of suspension.

A risk assessment should be carried out for each individual case to determine whether the member of staff should be suspended. The assessment should take into account the context of the allegation, background information in relation to the member of staff, and any outcome following the strategy meeting. It should also take into account whether a temporary transfer or period of paid leave is appropriate as an alternative to suspension. The assessment must be recorded and a copy kept on file.

When a decision to suspend is taken it will be made clear that the suspension is neither a disciplinary penalty nor an assumption of guilt.

If a suspended employee is certificated by his/her GP as being unfit for work, s/he will be paid in accordance with their sick pay entitlement for that period of certification. This means that if a period of certificated sick leave continues beyond the employee's entitlement to full pay, s/he will receive pay in line with their sick pay entitlement which may be at half pay or no pay rate.

At frequent intervals, the CEO, Headteacher and/or nominated governor or Director should review whether an employee should remain suspended. Any suspension which extends beyond four working weeks will be reported to the Chair of Governors or Directors as appropriate with details of how the investigation is progressing and when it is likely to end. Where any suspension continues for three months, the employee will be informed of the reasons for the suspension continuing and when it is likely to come to an end.

The responsibility for lifting suspension lies with the Directors and is delegated by the Directors to the Local Governing Body and this can be further delegated to the Chair of the LGB or the Headteacher.

Resignations

If an employee resigns when the allegation is made against them or during an investigation, the investigation will continue until an outcome has been reached, with or without the employee's cooperation. They will be given full opportunity to answer the allegation and make representations about it, but 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 those circumstances, and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

By the same token so called 'compromise agreements' or 'settlement agreements', by which a person agrees to resign if the SJB CMAT 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. In any event, such an agreement will not prevent a thorough police investigation where that is appropriate. Nor can it override the statutory duty to make a referral to the DBS or to the National College for Teaching and Leadership where circumstances require that.

Record keeping

Where an allegation is found to be malicious, it will be removed from the record of the employee concerned. For all other allegations, records of investigations and outcomes will be kept in the employee's personal file and they will be given a copy. The record will be kept, including for people who leave the organisation, at least until the person reaches normal retirement age or for 10 years if that will be longer, from the date of the allegation.

Details of any allegation made by a pupil will be kept in the confidential section of their record.

Action on conclusion of the case

If it is decided that the employee may return to school after a suspension then provisions will be put in place by the school to ensure that the transition is as smooth as possible. This may involve a phased return for a trial period or the use of another member of staff as a support system in the short term. If the child who made the allegation is still at the school, the school will consider what needs to be done to manage the contact between employee and child.

Referral to DBS

If, on conclusion of the case, the School ceases to use the person's services, or the person ceases to provide his or her services, the School should consult the LADO about whether a referral to the Disclosure and Barring Service (DBS) is required. If a referral is appropriate the report should be made within one month.

Action in the case of false or malicious allegations

Where an allegation is proved to be false, the CEO, Headteacher and Chair of Governors or Directors may refer to social services to determine whether the child is in need of support or has been abused by someone else.

The Local School's behaviour policy sets out the disciplinary action that may be taken against pupils who are found to have made malicious accusations against school staff. The Headteacher may consult the school governors when considering what action to take. If it is clear to the Head teacher and the LADO that the allegation is demonstrably false or unfounded the member of staff should be informed orally and in writing of the allegation, that it is without foundation and that no further action will be taken. Where appropriate, and if requested, support should be offered, which could include occupational health and counselling services. If an allegation made by a member of staff is proved to be false and/or malicious, an investigation should take place in accordance with the SJB CMAT Disciplinary Policy and Procedures. The police may also consider taking action against the individual making the allegation.

If the claim has been made by a person who is not a pupil, the school may pass the information to the police who may take further action against that person.

After the case

No matter what the outcome is of an allegation of abuse against staff, the school will review the case to see if there are any improvements that can be made in its practice or policy that may help to deal with cases in the future.

Appendix 1

INFORMATION GUIDE FOR EMPLOYEES FACING ALLEGATIONS

The aim of this information guide is to explain the processes involved, and the support and guidance available, if it is alleged that that you have:

- harmed a pupil or put a child at risk of harm; or
- committed a criminal act toward a pupil; or
- behaved in a way that raises concern about your suitability to work with children or young people.

1. Initial Action

As soon as possible after the allegation is made, the CEO or Headteacher should consult the Local Authority Designated Officer (LADO) to discuss the next action points, taking advice from social care and the police as needed. The police may advise that you are not told about the allegation immediately.

The CEO or Headteacher's decision in consultation with the LADO will be one, or a combination of the following:

- a. The pupil is alleged to have suffered, or is likely to suffer, significant harm - which requires immediate referral to social care.
- b. A criminal offence is alleged - which requires referral to social care and police.
- c. The allegation represents poor or inappropriate behaviour - which should be considered under the MAT disciplinary and/or capability procedures, including referral, if appropriate, to the School occupational health advisor.
- d. The allegation is clearly and demonstrably without foundation and no further action will be taken.

If the conclusion of the initial discussions are a) or b), a strategy discussion will take place involving police, social care, the CEO or Headteacher, LADO and the SJB CMAT's HR Business Partner. You will not be invited. The discussion will focus on the needs of the pupil(s) who may be at risk. It will determine what action should be taken regarding further investigation, but it is not part of any disciplinary procedures.

If the initial discussions conclude the situation is as outlined in c): an investigation will be initiated under the MAT's disciplinary and/or capability procedures.

If the conclusion is as outlined in d) you should be told orally and in writing that the allegation is without foundation, and that no further action will be taken.

2. Types of Possible Investigation

Child protection enquiries by social care

Criminal investigation by police

Disciplinary/capability investigation

A disciplinary investigation will usually be held in abeyance until external agency investigations are complete, unless prior agreement is reached. Whilst these investigations should be conducted as speedily as possible, they should also be balanced against the need to be thorough and fair, in line with natural justice. Statements taken in external investigations could be used in subsequent disciplinary proceedings.

3. Suspension

Suspension is neither a disciplinary penalty nor an assumption of guilt and is not automatic. Where possible, the decision to suspend should be informed by the strategy discussion, and should only occur when the known facts relating to the allegation indicate:

- a pupil may be at risk.
- the allegations are so serious that dismissal for gross misconduct is possible. Suspension is necessary to allow the conduct of the investigation to proceed unimpeded.

Alternatives to suspension will be considered, e.g. transfer of duties, additional supervision.

Where suspension is being considered, you will be consulted, where possible. You have the right to be accompanied by a trade union representative or a colleague. You are advised to seek the assistance of your union representative. If you are suspended, one of his/her roles will be to promote your interests and raise issues that may be of concern to you.

The consultation is not an examination of the evidence, but an opportunity for you to make representations concerning possible suspension.

Other people, including other staff, should only be told about the allegation on a 'need to know basis'.

Notification may be delayed if the police think this could prejudice an investigation.

Those who will be told of the allegation and likely course of action include you, the pupil concerned, his/her parent/carer, the person making the allegation, your line manager, the CEO, the Head teacher, SJB CMAT's HR Business Partner, the LADO and the investigating agencies as above.

If you are suspended, those persons likely to be on a disciplinary panel, if convened, will be given limited information so any future disciplinary process is not prejudiced. If the matter becomes common knowledge, it may be necessary to issue a brief statement, agreed by the agencies concerned, to parents, pupils and the public.

4. Support

You should expect to be:

- advised to contact your union representative.
- given a support contact within the school who should keep you up-to-date with the progress of your case.
- given a named contact person, if you are suspended, who will update you about normal organisation activities. Social contact with colleagues should not be precluded unless this would be detrimental to the investigation. The type of information and frequency of contact should be agreed, but colleagues should not comment on or discuss the investigation.
- offered staff counselling service and/or occupational health support.

This may be a stressful time, so in addition to contacting your union representative, you are advised to see your GP if you think your health may be affected.