



GALILEO

MULTI ACADEMY TRUST

MANAGING ALLEGATIONS AND LOW-LEVEL CONCERNS AGAINST ADULTS

Document Control			
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This document applies to all schools and operations of the Galileo Multi Academy Trust: www.galileotrust.co.uk

Policy Review Sheet

Date of changes:		03.02.22
Page/ Section	Changes to note	Reason for change <i>e.g. change in legislation</i>
P4	Changes to Introduction including addition of low-level concern definition	Additional information/ updates to KCSiE Part 4
P5	Mention of how reports will be dealt with	Clarity of process
P6	Information on transferable risks added	Updated information
P9	Updated information on suspension of staff during investigation	Clarity of process
P12	Details of what records should include Section on Low-level concerns has been added	Updated information Updates to KCSiE Part 4
P13	Section on Staff Code of Conduct added Details added for recording of low-level concerns	Updated information Updates to KCSiE Part 4
P14	Added sections on References, additional considerations, and timescales	Additional information/ clarity of process
P15	Appendix 1 added to clearly show the process to follow	Clarity of process
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Introduction

Galileo Multi Academy Trust recognises that child protection is of paramount importance and must deal with child protection issues including child protection allegations against staff, in the most effective and sensitive manner. This policy includes all Trust employees, at all levels and grades. Allegations against former employees must be reported to the police.

The policy sets out how the academy or the Trust will manage allegations and low-level concerns raised in relation to any employee and the guidance that we follow. It meets the requirement of statutory guidance for managing allegations set out in Part 4 of Keeping Children Safe in Education to ensure we are protecting our children from abuse, potential abuse or harm.

Schools are expected to have a two-tier system for dealing with concerns and allegations in relation to the behaviour of staff:

- **Low level concerns** that do not involve harm to a child but raise concerns about the staff member's professional behaviour will be dealt with via internal procedures based on the school's staff disciplinary procedures.
- **Concerns and allegations that involve possible harm to a child** will be dealt with under this policy. This includes any concerns relating to transferrable risks even where the named child has not been harmed on this occasion.

The Trust and all Trust schools have a responsibility to:

- Adhere to its statutory responsibility to report all allegations of child abuse and to alert others where appropriate if they suspect that child abuse may have occurred.
- Work in conjunction with all other agencies as outlined in this procedure and to co-operate fully with any investigations undertaken by the Police and the Local Authority Designated Officer (LADO)
- Ensure that all staff are aware of this procedure and their responsibility to report any allegations or possible concerns of a child protection nature. Failure to report may (a) put a child at risk and (b) imply a breach of the employee's contractual duty.
- Provide support to all parties involved in the allegation.
- Apply this process fairly and equally to all staff.
- Safeguard confidentiality and disclose information only as appropriate.

Employees have a responsibility to:

- Report any allegations or concerns of a child protection nature. Failure to report, may result in disciplinary action being taken.
- Assist the statutory child protection investigation agencies by ensuring any possible allegation or concern is reported to an appropriate person and by co-operating with any investigative process, if/when required.
- Be aware of the need to avoid impeding an investigation, e.g. by publicising the allegation or providing the opportunity for evidence to be obscured or destroyed.

In cases where the Police or the Crown Prosecution Service have decided against a criminal prosecution, staff must continue to co-operate fully with any internal disciplinary investigation that may follow.

- Adhere to confidentiality guidelines

Advice can be sought from the Business Manager, Senior Leadership Team, External HR support, Designated Child Protection Officers or Trade Union Representatives.

This guidance is informed by:

- Keeping Children Safe in Education – Statutory Guidance for Schools and Colleges – September 2021
- Working Together to Safeguard Children - July 2018
- Education Act - 2011
- Children’s Act - 2004 (Section 11)
- Sexual Offences Act - 2003 (details the offence of those in a position of trust having a sexual relationship with a young person between the ages of 16 and 18 years who is currently being cared for or educated by the individual).
- Education Act - 2002 (Section 175)
- Related Trust policies including Safeguarding and Child Protection Policy and Staff Disciplinary Procedure.

Procedure for employees to follow if an allegation is made/there are child protection concerns

A child who reports that he/she may have been abused by an employee of the Trust, must be carefully listened to in all circumstances. ‘Listened to’ means just that; on no account should suggestions be made to a child as to alternative explanations for his/her worries; neither should any member of staff attempt to question the child as part of any investigation, as this could lead to primary evidence for any future prosecution being undermined.

Staff must not promise confidentiality to pupils who disclose allegations. Staff should make this clear to children who approach them, whilst also offering reassurance that they have a right to be heard and that their allegation will be taken seriously.

Any employee who becomes aware of a possible allegation or concern of a child protection nature must take immediate steps to ensure the matter is reported to the Headteacher.

Individuals with concerns must report this as quickly as possible. An investigation may be impeded if a concern is reported late and/or is communicated through several individuals before the designated person.

Any report must be dealt with quickly and in a way that effectively protects the child, and at the same time, supports the person who is subject to the concern or allegation. It is important that staff, students and parents/ carers are able to raise concerns, are listened to and taken seriously.

If the allegation or concern involves a Headteacher then the matter must be reported directly to the CEO. Should the allegation or concern involve the CEO then the matter must be reported to the Chair of the Trust. At all times any report of any allegation or possible concern will be dealt with in the strictest confidence with full protection under the Public Interest Disclosure Act 1998 ('Whistle-blowing').

Procedure for senior management to follow when an allegation has been reported

If an allegation of abuse is made against a member of staff, careful consideration should be given to the possibility of abuse and of a referral being made of any concerns to the statutory agencies if it is considered that the threshold of significant harm has been reached and a person who works with children has:

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

The fourth bullet point above includes behaviour that may have happened outside the academy or Trust that might make an individual unsuitable to work with children. This is known as transferable risk.

Following an allegation there are several courses of action:

- Where the threshold outlined above has not been reached, local arrangements should be followed to resolve the case without delay.
- Where the threshold has been reached, the Local Authority Designated Officer (LADO) must be informed and possibly the police.
- HR to be informed in all cases.

This consultation must take place prior to any form of investigation being undertaken by the School/ Trust. Confidentiality must be maintained throughout this stage in order that any subsequent investigation is not prejudiced and that the interests of all parties are protected.

The purpose of this consultation is to consider the nature, content and context of the allegation and agree a course of action.

The outcomes of the discussion may include the following:

- No further action to be taken (this decision and justification for it should be recorded by the Headteacher, LADO and HR; and agreement reached on what information should be put in writing to the individual concerned and by whom. Consideration should also be given to what internal 'follow up' should follow in relation to both the individual and the person (s) who made the allegation.

- Investigations involving the police are not necessary, or a strategy discussion agrees this to be the case, then the case will be dealt with via the Trust's disciplinary procedure.
- A strategy discussion to be arranged, in accordance with 'Working Together to Safeguard Children' in cases where it is suspected that a child is suffering or likely to suffer significant harm. A decision should be taken as to the next course of action, and who will undertake investigations if necessary (see 'Investigations' below). No information should be shared with the individual prior to a strategy discussion. Suspension of the individual should be discussed (see below).

Internal management investigations should only be pursued once the Police have concluded their involvement, or it has been deemed unnecessary to refer the matter at the initial consultation with the LADO due to the allegation not reaching the threshold of abuse as defined above. In exceptional circumstances it may be possible for a statutory investigation and an internal investigation to run concurrently but this should only be in the most severe of cases with the prior agreement of the agencies involved.

The individual should be informed of the allegation and likely course of action as soon as possible, but not prior to the discussion with the LADO/subsequent strategy discussion if applicable. They should also be advised to contact their trade union representative and offered counselling/Occupational Health support.

Parents/carers of the child(ren) involved should be told as soon as possible about the allegation. This must be agreed in conjunction with the LADO/HR and any subsequent strategy discussions if applicable. Parents/carers should be kept informed about the progress of the case including the outcome (where there is no criminal prosecution). Such disclosures should be in line with the Data Protection Act 2018, the Law of Confidence and, where relevant, the Human Rights Act 1998.

Where the allegation relates to the use of physical intervention to restrain a pupil (Section 93 of the Education and Inspections Act 2006 enables school staff to use such force as is reasonable to keep a situation safe), the Headteacher should consult with the LADO and HR Provider in the first instance as this may be appropriately managed within the school. It is important for this consultation to take place to demonstrate that the school has acted in an open and transparent manner in establishing if the allegation meets the threshold for referral. An allegation of assault beyond the use of reasonable force, however, would need to be referred to the LADO as a child protection matter. Further information can be found in the document 'Use of Reasonable Force, advice for Head teachers, Staff and Governing Bodies', July 2013, Department for Education.

Investigations

There will be two possible types of investigation:

- By the Police under criminal law, and:
- By the Trust/School in line with staff disciplinary procedures.

The Police are responsible for investigating allegations which indicate that a crime has been committed. The Crown Prosecution Service will then take any decision on whether to formally prosecute.

At any point during an investigation, the Police may agree that the investigation be terminated.

Such decision will be ratified at a final strategy meeting with the LADO, HR and the Police with recommendations for further action if appropriate (i.e. conducting an internal disciplinary investigation).

Following criminal investigations, the policy should inform the school and the LADO when the investigation and any subsequent trial is complete. A discussion must then be held between the Headteacher, LADO and HR about how to proceed.

Any disciplinary process should be clearly separated from the criminal investigations. The disciplinary process may be informed by these other investigations and in some circumstances the LADO or police might decide to make a recommendation about suspension or other protective action as a result of a strategy discussion. The LADO or criminal investigation has different objectives from the internal disciplinary procedure and the two processes should not be confused.

Considering whether suspension is appropriate

Suspension of an employee

The suspension of an employee, particularly in situations of potential child protection allegations will have a significant impact on the individual and therefore it is essential that the facts of the case, as they are known, and alternative courses of action are carefully considered in deciding whether to suspend. The specific arrangements for the suspension of staff are set out in the Trust's disciplinary procedure, but it should be recognised that suspension is a neutral act to protect the interests of both parties and not an assumption of guilt. The employee should be sent written confirmation of any decision to suspend.

The decision to suspend is taken by the Headteacher and not by the Police or LADO, however, the LADO in collaboration with other agencies, may advise the Headteacher of any action recommended to ensure the protection of children, protection of employees and safeguarding of information. This will be in conjunction with HR.

Being suspended or asked to refrain from work can cause an individual significant anxiety. They may fear that colleagues and others within the school will have interpreted the act of suspension as an indicator of presumed guilt from an early stage and may feel particularly isolated and vulnerable.

Any member of staff subject to an allegation should be encouraged to seek advice and support at the earliest opportunity from their professional association or trade union. Suspended employees should be given a named school contact; and counselling/occupational health support offered. Where a staff member has been suspended, 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. Agreement should be reached (with HR/LADO/police/other agencies as appropriate) as to how the member of staff should be kept updated about the progress of the investigation.

It must also be acknowledged that the whole school may be affected by a staff member's suspension, and consideration should be given to necessary support strategies to address this.

The need for support is equally applicable when considering a staff member's return to work. Suspension should be retained for as short a length of time as possible and if it is agreed a staff member is to return to school/work, careful planning needs to take place as to how this situation can be managed as sensitively as possible.

Initial considerations

The Headteacher, through consultation with the Designated Safeguarding Lead (DSL) and the Chair of Governors, will decide whether or not the member of staff should continue to work with children during the investigation (see Disciplinary policy). The Trust is mindful of the need to safeguard and protect children's welfare whilst also providing effective support and protection to the individual subject to the allegation.

It may not be immediately obvious that suspension should be considered, and this course of action sometimes only becomes clear after information is shared with, and discussion had, with other agencies.

When considering suspension, it is important to have regard to the following factors:

- The nature of the allegation
- Assessment of the presenting risk
- The context in which the allegation occurred
- The individual's contact with children
- Any other relevant information
- The power to suspend
- Alternatives to suspension

Suspension should only be applied if one or more of the following grounds apply:

- A child or children/member of staff would be at risk
- The allegation is so serious that summary dismissal for gross misconduct is possible
- It is necessary to allow any investigation to continue unimpeded

In some cases, early or immediate suspension may impede a Police investigation, and therefore the decision whether to suspend may have to be delayed until sufficient evidence has been gathered. Suspension should be avoided in such cases wherever possible and should not be seen as an automatic response to an allegation. Suspension should only follow discussion with the LADO/HR/police strategy discussion. The decision to suspend remains the responsibility of the Headteacher.

Where the Secretary of State has made an interim prohibition order in respect of an employee, it will be necessary to immediately suspend that person from teaching, pending the findings of the investigation. If suspension is considered necessary, the rationale/justification/and alternatives considered should be agreed and recorded by the Headteacher, LADO, HR and the police.

Alternatives to suspension

While weighing the factors as to whether suspension is necessary, available alternatives to suspension should be considered. This may be achieved by:

- Leave of absence
- Undertaking different duties which do not involve direct contact with the individual child or other children
- Providing a classroom assistant or other colleague to be present throughout contact time.

The Trust recognises the potential impact on professional reputation resulting from suspension where an allegation is found to be unsubstantiated or malicious.

Internal disciplinary investigation/hearing

No investigation/action under the disciplinary procedure shall be taken in circumstances which may interfere with the Police investigation.

Once any Police investigation has been completed and the matter is not proceeding to court, a decision should be taken by the appropriate person in the school, as whether to investigate under the disciplinary procedures. The school may need to seek legal advice prior to reaching a decision on this. In addition, the school must seek advice from the LADO in all cases if the safeguarding of children's welfare remains an issue within the school.

Investigations will follow the delegations as per disciplinary procedure and an appropriate nominated investigating manager appointed to conduct the investigation i.e., an investigating manager will not be nominated where their knowledge might prejudice a fair hearing or where he/she is implicated. The investigation will be undertaken in accordance with the Trust's disciplinary procedure.

The position of the employer, in coming to a reasonably held view is not parallel to the decision made by a criminal court. The employer is able to come to a reasonably held view 'on the balance of probability'. The disciplinary investigation must gather evidence objectively establishing the facts where possible and follow the principles of fairness, reasonableness, and natural justice.

Where allegations of child abuse are received against an employee of the Trust, the CEO/HR support will ensure that relevant information is obtained from the Police/LADO is made available to the investigating manager, in order to inform the investigation report presented to the Hearing panel. The Appeals panel who are to hear disciplinary appeals must not be involved in the investigation of the complaint or the disciplinary hearing.

Evidence derived from the criminal investigation (e.g. statements, exhibits, video-recorded interviews with children) may be available for use in subsequent internal

disciplinary proceedings, particularly where the witnesses are the same, subject to release from the police.

Whether it is appropriate to call children as witnesses will depend on their age, understanding and capability. However, the attendance of children at any hearing would be in extremely unusual circumstances and will only occur following careful consultation with all interested parties including the parents/carers of the child/ren.

If a decision is taken to proceed with a disciplinary investigation, the employee should be informed, in writing, as required under the disciplinary procedure.

The school will need to make appropriate arrangements to notify the parent/guardian of the child/ren of the outcome of the investigation/hearing and may seek legal advice and the advice from the LADO or police, regarding the nature of information that can be disclosed.

Referral to DBS

The Trust has a legal duty to refer to the Disclosure and Barring Service (DBS), anyone who has harmed, or poses a risk of harm, to a child, or if there is a reason to believe the member of staff has committed one of several listed offences and who has been removed from working (paid or unpaid) in regulated activity or would have been removed had they not left. Referrals should be made as soon as possible after the resignation or removal of the individual. Settlement agreements will not override this duty.

Where the Trust ceases to use the services of a teacher because of serious misconduct or would have dismissed them had they not left first, they must consider whether to refer the case to the Teachers Regulations Agency (TRA) who may investigate the case, and if there is a case to answer, must decide whether to make a prohibition order.

Confidentiality

All individuals involved have a responsibility to safeguard confidentiality as far as is possible. Sensitive information must only be disclosed on a need-to-know basis with other professionals involved in the investigative process. Other people may become aware of the allegation and may not feel bound to maintain confidentiality. Therefore, consideration should be given on how best to manage information, particularly in relation to who should be told what, when and how. This is particularly relevant in respect of parents, carers and the media. Reporting restrictions detailed in the Education Act 2011 should be adhered to. Information sharing should be discussed with the LADO.

Timescales

Every effort will be made to deal with cases within the target timescales set out in the 'Keeping Children Safe in Education Document' as far as possible.

Record keeping and monitoring

It is essential to record the decisions reached and the rationale behind them. LADO records will also be made of the agreed action and strategies to manage the situation.

Records will clearly indicate the following:

- Any restrictions to normal contact or activity,
- Issues of contact with children,
- Arrangements for monitoring and welfare support in relation to the member of staff.
- Monitoring the support available for the child.

It is important for the LADO to keep a record of the actions taken in the course of the investigation and, where relevant, the process and conclusion of suspension. If individuals have specific tasks or responsibilities to carry out, this should be noted and followed up. Agreed strategies for managing and sharing information should be included here. In addition, the member of staff should be informed of the decisions taken at the earliest opportunity.

Details of malicious allegations should be removed from personal files. For all other allegations, a comprehensive summary of the allegation should be kept on the employee's HR file and a copy provided to the member of staff. The summary should include:

- details of how the allegations were followed up and resolved
- a note of any action taken
- decisions reached including whether information will be referred to in any future reference

Records will be retained, at least, until the member of staff concerned has reached normal retirement age, or for a period of 10 years from the date of the allegation, whichever is longer.

Low Level Concerns

Low level concerns are defined in Part 4 of Keeping Children Safe in Education 2021 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 may have acted in a way that is inconsistent with the staff code of conduct, including inappropriate conduct outside work and/or does not meet the allegations threshold or is otherwise not considered serious enough to consider a referral to the LADO.

Examples of such behaviour could include, but is not limited to:

- being over friendly with children
- having favourites
- taking photographs of children on their mobile phone
- engaging with a child on a one-to-one basis in a secluded area or behind a closed door
- using inappropriate sexualised, intimidating or offensive language

Staff Code of Conduct

We recognise the importance of creating a culture of openness, trust and transparency to encourage all staff to share low-level concerns so that they can be addressed appropriately.

We will create a whole organisational culture by:

- ensuring staff are clear about what appropriate behaviour is, and are confident in distinguishing expected and appropriate behaviour from concerning, problematic or inappropriate behaviour, in themselves and others
- empowering staff to share any low-level concerns
- addressing unprofessional behaviour and supporting the individual to correct it at an early stage
- providing a responsive, sensitive and proportionate handling of such concerns when they are raised
- helping to identify any weakness in our safeguarding system
- encourage staff/tutors to feel confident to self-refer

All low-level concerns should be reported to the Headteacher. If the concern is relating to the Headteacher, a report should be made to the Chair of Governors. The procedure for investigating low level concerns is the same as those that meet the threshold.

Staff are not required to determine whether their concern meets the threshold or is a low-level concern; this will be determined by the Headteacher or Chair of Governors upon reviewing the reported concern.

The Headteacher or Chair of Governors will discuss the concern with the individual who raised it and will investigate it as appropriate. Most low-level concerns are likely to be minor and can be dealt with by means of management support or additional training. Where necessary, action may be taken in accordance with the Disciplinary policy.

Recording low-level concerns

All low-level concerns will be recorded in writing. In addition to details of the concern raised, records will include the context in which the concern arose, any action taken and the rationale for decisions and action taken. The name of the individual sharing their concerns will also be noted, if the individual wishes to remain anonymous then that should be respected as far as reasonably possible.

Records will be:

- kept confidential, held securely and comply with the DPA 2018
- reviewed so that potential patterns of concerning, problematic or inappropriate behaviour can be identified. Where a pattern of such behaviour is identified, we will decide on a course of action, either through our disciplinary procedures or, where a pattern of behaviour moves from a concern to meeting the harms threshold, we will refer it to the LADO

- consideration will be given as to whether there are any wider cultural issues within the Trust that enabled the behaviour to occur. Where appropriate we will revise policies or provide extra training to minimise the risk happening again
- be retained at least until the individual leaves employment

References

We will not include low-level concerns in references unless:

- the concern (or group of concerns) has met the threshold for referral to the LADO and is found to be substantiated; and/or
- the concern (or group of concerns) relates to issues which would ordinarily be included in a reference, such as misconduct or poor performance

Allegations against staff who are no longer in the Trust and historical allegations of abuse will be referred to the local authority designated officer (LADO) and/or police.

Additional considerations

If there are concerns or an allegation is made against someone not directly employed by the Trust, we will take the actions below in addition to our standard procedures.

- we will not decide to withdraw our services to a tutor due to safeguarding concerns without finding out the facts and liaising with our local authority designated officer to determine a suitable outcome
- we will take the lead in collecting the necessary information and providing it to the local authority designated officer as required
- we will address issues such as information sharing, to ensure any previous concerns or allegations known are considered

Timescales

- Any cases where it is clear immediately that the allegation is unsubstantiated or malicious will be resolved within 1 week
- If the nature of an allegation does not require the withdrawal of our services or a formal disciplinary hearing, we will institute appropriate action within 3 working days
- If a disciplinary hearing is required and can be held without further investigation, we will hold this within 15 working days

Appendix 1

