

# Managing Allegations against Staff, Volunteers, Pupils or Contractors

## Libra

### Policies and Procedures

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Mid-year updates

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# Managing Allegations against Staff, Volunteers, Pupils or Contractors

This policy has been developed from a good practice template issued by Plymouth Safeguarding Children Board in accordance with the following legislation and guidance and should be read in conjunction with the Libra Safeguarding Policy and other associated policies and procedures.

We believe this policy relates to the following legislation:

- Children Act 1989
- Police Act 1997
- Data Protection Act 1998
- Police Act 1997 (Criminal Records) Regulations 2002
- Education Act 2002
- Children Act 2004
- Safeguarding Vulnerable Groups Act 2006
- Education and Inspections Act 2006
- Children and Young Persons Act 2008
- Police Act 1997 (Criminal Records) (No. 2) Regulations 2009
- School Staffing (England) Regulations 2009
- Equality Act 2010
- Education Act 2011
- Protection of Freedoms Act 2012

The following documentation is also related to this policy:

- Dealing with Allegations of Abuse against Teachers and other Staff: Guidance for Local Authorities, Headteachers, School Staff, Governing Bodies and Proprietors of Independent Schools (DfE)
- Equality Act 2010: Advice for Schools (DfE)
- Keeping Children Safe in Education (DfE) September 2018
- Working Together to Safeguard Children: A Guide to Inter-agency Working to Safeguard and Promote the Welfare of Children
- Working Together to Safeguard Children 2015
- Guidance for the Police under the Protection from Harassment Act 1997 published by the Crown Prosecution Service.
- Race Disparity Audit - Summary Findings from the Ethnicity Facts and Figures Website (Cabinet Office)
- Data Protection: a toolkit for schools (DfE)
- Preparing for the General Data Protection Regulation (GDPR) - Information Commissioner's Office.

We believe an allegation is best defined as a claim or assertion that someone has done something illegal or wrong, typically one made without proof. It could be information that comes to light suggesting an employee, a volunteer or a contractor 'may have hurt or harmed a child, or possibly committing a criminal offence against a child or has behaved in such a way towards a child or young person that indicates they would pose a risk of harm to children if they continue their current employment or in any capacity which involves working with children.'

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We recognise that anyone who comes into contact with children such as the Headteacher, teaching staff, support staff, volunteers and contractors are vulnerable to accusations of abuse.

We recognise that all Libra staff are vulnerable to accusations of abuse because of their daily contact with children. We acknowledge that dealing with allegations against school staff is a stressful, demanding, complex and delicate process for all involved. But we acknowledge our position to ensure we give duty of care to our employees and will ensure that all allegations will be taken seriously and investigated immediately and impartially in order to provide instant and effective protection for the child concerned and to provide support for the person who is the subject of the allegation.

The procedures for dealing with allegations need to be applied with common sense and judgement. The following definitions will 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:** where there is no evidence or proper basis which supports the allegation being made.

(Keeping Children Safe in Education: Statutory Guidance for Schools and Colleges (DfE))  
September 2018

We will ensure that any contractor, or any employee of a contractor, who is to work at school, will be subjected to the appropriate level of DBS check. We will not allow any contractor who has not been checked to work unsupervised. The identity of all contractors will be checked on arrival at school.

We will ensure that an allegation made against a contractor or any employee of a contractor will be investigated by the Headteacher and Designated Safeguarding Lead in the same way as investigating an allegation against a teacher, a member of support staff or a school volunteer.

In the case of an allegation being made against the Headteacher we will ensure the investigation will be conducted by the Chair of Governors who will discuss the allegation with the designated officer.

We wish to create a culture of openness that will allow children and Libra staff to make truthful reports of any inappropriate behaviour and in the knowledge that all allegations will be taken seriously.

We encourage all Libra staff to protect themselves against false accusations by treating all children with dignity and respect. We must ensure that staff do not suffer unnecessarily when false allegations have been made against them and that their careers are not

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wrecked. We believe it is our duty to establish the reason why pupils make false allegations against staff and to put into place support procedures to help pupils overcome any problems they may have.

Libra recognises its' responsibility to safeguard and protect the welfare of the children and young people in its' care in accordance with its statutory responsibility under Section 175 of the Education Act 2002 and where appropriate under the Children Acts. Libra has in place a procedure for handling allegations against staff and volunteers that is consistent with the guidance contained in *Working Together to Safeguard Children*<sup>1</sup> and the local safeguarding children board (LSCB) child protection procedures. (<http://www.online-procedures.co.uk/swcpp>)

We believe allegations against staff can be minimised by having in place safer recruitment strategies, appropriate induction and training, an open and transparent safeguarding ethos, a professional code of conduct, regular staff briefing and discussion of safeguarding issues, and by ensuring that pupils are aware of safeguarding issues through PSHE.

We understand that we have a legal duty once an allegation has been made to undertake a full investigation, to record the decisions reached and action taken.

We are aware that the General Data Protection Regulations (GDPR) will entirely replace the current Data Protection Act (DPA) by making radical changes to many existing data protection rules and regulations that schools, academies and other educational establishments adhere to under the DPA. The principal aim of the GDPR is to strengthen and unify the safety and security of all data held within an organisation.

We acknowledge the new guidance given to all schools in the 'Data protection: a toolkit for schools' (DfE April 2018) regarding the appropriate use of personal data.

Libra as a community, have a commitment to promote equality. Therefore, an equality impact assessment has been undertaken and we believe this policy is in line with the Equality Act 2010.

We believe it is essential that this policy clearly identifies and outlines the roles and responsibilities of all those involved in the procedures and arrangements that is connected with this policy.

### **Aims**

- To investigate all allegations against Libra staff seriously and impartially by providing protection for the child and support for the named person in the allegation.
- To ensure compliance with all relevant legislation connected to this policy.
- To work with Local Authorities to share good practice in order to improve this policy.

### **Responsibility for the Policy and Procedure**

Libra will manage all allegations against staff and/or volunteers in accordance with the agreed South West Child Protection Procedures which can be accessed on the following links ([www.swcpp.org.uk](http://www.swcpp.org.uk), <http://www.online-procedures.co.uk/swcpp>) and has a nominated 'Senior Designated Person' and 'Deputy Designated Person' who will liaise with the Local Authority Designated Officer (LADO) on all matters of concern which meet any of the following criteria:-

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It appears that the person has:

- Behaved in a way that has harmed a child, or may have harmed a child, or,
- Possibly committed a criminal offence against or related to a child, or,
- Behaved towards a child or children in a way that indicates he or she would pose a risk of harm to children.

In addition, these procedures will be used:-

- If there are concerns about the person's behaviour towards their own children, or children unrelated to their employment or voluntary work, and there has been a recommendation from a strategy discussion that consideration should be given to the risk posed to children they work with, or,
- When an allegation is made about abuse that took place some time ago and the accused person may still be working or having contact with children.

There can be up to three strands in the consideration of an allegation:

- A police investigation of a possible criminal offence
- Enquiries and assessment by children's social care about whether a child is in need of protection or in need of services
- Consideration by an employer of disciplinary action in respect of the individual.

Allegations against a teacher who is no longer teaching would be referred to the police. Historical allegations of abuse would also be referred to the police.

Libra will not attempt to manage allegations or concerns which meet any of the above criteria through other mechanisms such as the Libra Complaints Procedure or Disciplinary Procedures, unless written agreement to do so has been confirmed by the Local Authority Designated Officer (LADO).

### **Allegations of Abuse made against other children**

The Directors will ensure that appropriate procedures are in place to handle allegations against other children and the Designated Safeguarding Officer will follow the procedures accordingly.

The exact procedure would be once the allegation was known then the Safeguarding Officer (or Deputy in his/her absence) would report details directly to the relevant LADO (Devon for School – associated allegations and Somerset for allegations occurring in our Children's Homes).

The Directors, and Senior Management Team including the Designated Safeguarding Officer will ensure that the child's wishes and feelings are taken into account when determining what action to take and what services to provide, to protect individual children through ensuring there are systems in place for children to express their views and give feedback. Directors ensure that staff members do not agree confidentiality and always act in the interests of the child(ren).

### **Definition of Allegation Investigations**

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;

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- **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.

### Role of the Directors

The Directors will:

- investigate all allegations against any member of the Libra staff/Headteacher;
- ensure that the response to an allegation staff suspension should not be the default option. An individual should only be suspended if there is no reasonable alternative. If suspension is deemed appropriate, the reasons and justification should be recorded by Libra and the individual notified of the reasons. The member of staff will be provided with the name and contact details of a representative within the organisation who can provide effective support for them as well as information on the progress of the case.
- refer any allegation against a member of staff no longer working for the company to the police;
- consult with the appropriate Local Authority Designated Officer when an allegation has been made 'to consider the nature, content and context of the allegation and agree a course of action';
- appoint an independent investigator if the allegation is deemed to be serious;
- appoint an internal Case Manager to investigate the allegation if not deemed serious;
- share information about the named person in the allegation and the alleged victim with all agencies involved in the investigation;
- keep the person who is the subject of the allegation informed of the progress of the investigation;
- provide support for the person who is the subject of the allegation;
- keep parents informed of the investigation and outcome;
- provide appropriate support and counselling for the child and parents during the whole process;
- ensure that there are procedures in place to handle allegations against other children;
- make every effort to maintain confidentiality and to prevent unnecessary publicity;
- provide return to work support such as Occupational Health support for a member of staff returning to work after suspension following a positive conclusion to the investigation, due consideration will also be given to the member of staff returning in a 'phased return' capacity and/or the provision of a mentor to provide assistance and support in the short term;
- consult with the Local Authority Designated Officer what action should be taken such as referral to children's social care or disciplinary action if the allegation was found to be false;
- work closely with the Senior Designated Safeguarding Person;
- provide leadership and vision in respect of equality;
- provide guidance, support and training to all staff;
- monitor and evaluate the effectiveness of this policy

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### Role of the Senior Designated Safeguarding Person

The Senior Designated Safeguarding Person will:

- Ensure that arrangements within Libra for the delivery of Safeguarding are in place and in particular arrangements are in place for managing allegations against staff, contractor or any employee of a contractor;.
- ensure the implementation of this policy;
- ensure everyone connected with Libra is aware of this policy;
- work closely with the Directors and or Headteacher;
- be trained in child protection policy procedures;
- renew training every two years in order to;
  - understand the assessment process
  - understand the procedures of a child protection case conference and child protection review conference
  - understand the specific needs of children in need
  - understand the specific needs of children with special educational needs and those of young carers
- have in place a secure and accurate record system of all concerns and referrals
- take the lead in dealing with child protection issues;
- keep a confidential Child Protection Register of all those pupils known to be at risk and only if it is confirmed by social services that the child is at risk;
- be trained in working with all agencies;
- familiarise Libra staff with the policy and procedures;
- Ensure that all members of staff and volunteers receive a copy of the DFE guidance document entitled “Safer Working Practices for Adults who Work with Children and Young People” and the date it is issued is recorded on staff personal files or volunteer records
- investigate and deal with all cases of suspected or actual problems associated with child safeguarding;
- Put into practice the procedures to handle allegations against other children;
- Ensure that Libra operates an incident recording system whereby staff and/or volunteers record unusual incidents, issues or actions involving adults and children/young people which they feel may possibly be misconstrued at a later date. Libra will ensure that any such issues, incidents or actions which are of immediate concern in accordance with child protection or other procedures, will be actioned in accordance with agreed arrangements and protocols.
- Ensure that the Head Teacher and Directors are informed of any allegations against a member of staff.
- ensure parents are aware that referrals about suspected abuse or neglect may be made;
- make child protection referrals;
- record all child protection referrals;
- co-ordinate action within the school;
- liaise and seek advice from the Local Authority Designated Officer when the need arises;
- liaise with social care and other agencies;
- liaise with the Case Manager or Independent Investigator as required;
- transfer the child protection file of any pupil leaving to join another school;
- provide support for any child at risk;

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- not promise confidentiality to any child but always act in the interests of a child;
- act as a source of advice within the company;
- help create a culture within the school of listening to children;
- keep up to date with all new guidance on safeguarding children;
- keep all Libra staff up to date with any changes to procedures;
- organise appropriate training for Libra staff;
- ensure all incidents are recorded, reported and kept confidential;
- keep all paperwork up to date;
- report back to the appropriate school staff when necessary;
- review the circumstances of the case with the Case Manager at the conclusion of each case where an allegation is substantiated to determine whether there are any improvements to be made to school police/procedures/practice to help prevent similar events in the future including issues arising from the decision to suspend the member of staff, the duration of the suspension and whether or not suspension was justified. This review will also extend to include reviewing the use of suspension when the individual is subsequently reinstated. Together, both officers will consider how future investigations of a similar nature could be carried out without suspending the individual;
- annually review the policy with the Directors / Headteacher

### Role of the Case Manager (Proprietor)

The Case Manager will:

- ensure the implementation of this policy;
- work closely with the Directors and/or Headteacher and Designated Safeguarding Officer;
- be trained in child protection policy procedures;
- renew training every two years in order to:
  - understand the assessment process
  - understand the procedures of a child protection case conference and child protection review conference
  - understand the specific needs of children in need
  - understand the specific needs of children with special educational needs and those of young carers
- have in place a secure and accurate record system of all concerns and referrals;
- take the lead in dealing with an allocated investigation relating to Allegations against staff, visitors, contractors or employees of contractors or other pupils;
- undertake the following when an allegation is received:
  - Will take the allegation seriously, will keep an open mind and will not promise confidentiality to the informant.
  - Will not undertake an investigation.
  - Will make a written record of the allegation by:
    - using the informants words;
    - including the date, time, place of the incident, and those present;
    - signing and dating the record.
  - Will immediately contact the local authority's Designated Officer.

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- Will not undertake any discussions without the Designated Officer.
- Will make a written record with the Designated Officer and others.
- Will ensure the Designated Officer has full details of the person against who a concern has been raised and the person who is the subject of the concern.
- be trained in working with all agencies;
- Put into practice the procedures to handle allegations against other children;
- Ensure that the Head Teacher and Directors are informed of any allegations against a member of staff.
- ensure parents are aware that referrals about suspected abuse or neglect may be made;
- liaise and seek advice from the Local Authority Designated Officer when the need arises;
- liaise with social care and other agencies;
- liaise with an Independent Investigator as required;
- not promise confidentiality to any child but always act in the interests of a child;
- act as a source of advice within the company;
- help create a culture within the school of listening to children;
- keep up to date with all new guidance on safeguarding children;
- ensure all incidents are recorded, reported and kept confidential;
- keep all paperwork up to date;
- report back to the appropriate school staff when necessary;
- review the circumstances of the case with the Designated Safeguarding Officer at the conclusion of each case where an allegation is substantiated, to determine whether there are any improvements to be made to school policy/procedures/practice, to help prevent similar events in the future including issues arising from the decision to suspend the member of staff, the duration of the suspension and whether or not suspension was justified. This review will also extend to include reviewing the use of suspension when the individual is subsequently reinstated. Together, both officers will consider how future investigations of a similar nature could be carried out without suspending the individual;
- annually review the policy with the Directors / Headteacher.

### Role of School Staff

School staff will:

- comply with all aspects of this policy;
- maintain high standards of ethics and behaviour within and outside school and not to undermine fundamental British values;
- implement the school's equalities policy and schemes;
- report and deal with all incidents of discrimination;
- attend appropriate training sessions on equality;
- report any concerns they have on any aspect of the Libra community

### Role of Parents/Carers

Parents/carers will:

- be aware of and comply with this policy;
- be aware that under section 141F of the Education Act 2002 that there is a prohibition on reporting or publishing allegations about teachers;

### Procedure to Report Allegations

Libra staff must:

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- make a dated and timed written record of the disclosure or incident causing concern about a member of Libra Staff or Volunteer;
- immediately contact the Designated Senior Person for Child Protection or the Deputy Designated Senior Person for Child Protection either in person or by telephone call or other member of the Senior Leadership Team (Deputy Head or Directors) (if they are uncontactable).
- make a dated and timed written record of the disclosure or incident causing concern about the Headteacher;
- inform the Directors who will deal with the allegation;
- make a dated and timed written record of the disclosure or incident causing concern about a pupil;
- If the referral concerns the Directors, Senior Designated or Deputy Persons or any other member of the Senior Management Team the member of staff receiving the referral should make the referral directly to the Devon LADO (if the referral involves the school or a home in Devon) or Somerset LADO (if the referral involves a home in Somerset) within one working day:

**DEVON: Child Protection Team (LADO) on 01392 384964 and/or via their online referral form:**

<http://www.devon.gov.uk/index/childrenfamilies/childprotection/lado/lado-referral-form.htm>

**Multi-Agency Safeguarding Hub (MASH) on 0345 155 1071**

**OR**

**Emergency Out of Hours Duty Team Tel: 0845 6000388**

**If you consider an incident or allegation to be an emergency, and that a child/ children may be in danger of immediate harm, you may wish to consider in the first instance contacting either the Police on 999 or the Multi Agency Safeguarding Hub on 0345 155 1071 or via email [mashsecure@devon.gcsx.gov.uk](mailto:mashsecure@devon.gcsx.gov.uk)**

**SOMERSET: Child Protection Team (LADO)**

**Somerset Direct (Somerset Children and Young People's Services, Referral Team):**

**Tel: 0300 1232224 Fax: 01823 321187**

**OR**

**Local Authority Designated Officer: 01823 357823**

**OR**

**Emergency Duty Team Tel: 01458 253241**

**If you consider an incident or allegation to be an emergency, and that a child/ children may be in danger of immediate harm, you may wish to consider in the first instance contacting either the Police on 999 or the Emergency Duty Team 01458 253241**

- Where the allegation does not directly concern The Directors, the Designated Safeguarding Officer(s) or a member of the Senior Management Team, the Directors will appoint a suitable 'Case Manager' who in the first instance will discuss the allegation with the Designated Safeguarding Officer in order to consider the nature, content and context of the allegation and agree a course of action.
- The Designated Safeguarding Officer may ask the Case Manager to provide or obtain relevant additional information, such as previous history, whether the child or their family have made similar allegations previously and the individual's current contact with children. There may be situations when the Case Manager will want to involve the police immediately, eg if the person is deemed to be an immediate risk to children or

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there is evidence of possible criminal offence. Where there is no such evidence, the Case Manager should discuss the allegations with the Designated Safeguarding Officer in order to help determine whether police involvement is necessary.

- The initial sharing of information and evaluation may lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern; in which case this decision and a justification for it should be recorded by both the Case Manager and the Designated Safeguarding Officer, and agreement reached on what information should be put in writing to the individual concerned and by whom. The Case Manager will then consider with the Designated Safeguarding Officer what action should follow both in respect of the individual and those who made the initial allegation;
- The Case Manager will then inform the accused person about the allegation as soon as possible after consulting the Designated Safeguarding Officer. As it is extremely important, the Case Manager will provide them with as much information as possible at that time. However, where a strategy discussion is needed, or police or children's social care services need to be involved, the Case Manager will not do that until those agencies have been consulted, and have agreed what information can be disclosed to the accused.
- The Case Manager will undertake further assessments regarding sharing information relating to the case, based on advice from the Designated Safeguarding Officer, and police and children's social care services – where involved to agree the following:
  - Who needs to know and, importantly, exactly what information can be shared;
  - How to manage speculation, leaks and gossip;
  - What, if any information can be reasonably given to the wider community to reduce speculation; and
  - How to manage press interest if and when it should arise.

Libra will carefully consider whether the circumstances of a case warrant a person being suspended from contact with children at the school or home, or whether alternative arrangements can be put in place until the allegation of concern is resolved. All options to avoid suspension will be considered prior to taking that step.

If there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion will be convened in accordance with the statutory guidance 'Working Together to Safeguard Children 2015'. If the allegation is above physical contact, the strategy discussion or initial evaluation with the police should take into account, that teachers and other staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour.

Where it is clear that an investigation by the police or children's social care services is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the Designated Safeguarding Officer will discuss the next steps with the Case Manager. In those circumstances, the options open to Libra depend on the nature and circumstances of the allegation and the evidence and information available. This will range from taking no further action to dismissal or a decision not to use the person's services in future. Suspension should not be the default position: an individual should be suspended only if there is no reasonable alternative.

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In some cases, further enquiries will be made to enable a decision about how to proceed. If so, the Designated Safeguarding Officer will discuss with the Case Manager how and by whom the investigation will be undertaken. In other circumstances, such as lack of appropriate resource, or the nature of complexity of the allegation, Libra will engage an independent investigator and will liaise with the Local Authority in this regard.

The Case Manager will appoint a named representative to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual. Particular care will be taken when the person has been 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 will not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

Parents or carers of a child or children involved will be told about the allegation as soon as possible if they do not already know of it. However, where a strategy discussion is required, or police or children's social care services need to be involved, the Case Manager will not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers. Parents or carers will also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, will not normally be disclosed, but the parents or carers of the child will be told the outcome in confidence.

Parents and Carers will be made aware of the requirement to maintain confidentiality about any allegations made against teachers whilst investigations are ongoing as set out in Section 141F of the Education Act 2002 (para 125). If parents or carers wish to apply to the court to have reporting restrictions removed, they will be instructed to seek legal advice.

### **The Senior Designated Safeguarding Person will:**

- follow up the referral;
- make records of any discussions and any investigation that takes place;
- inform the Directors of the allegation.
- report the allegation within one working day to the LADO. The referral should be made directly to the Devon LADO (if the referral involves the school or a home in Devon) or Somerset LADO (if the referral involves a home in Somerset). Please refer to the Safeguarding Flow Charts.
- provide the Local Authority Designated Officer (LADO), the Police and Children's Social Care with any personal data/information about staff members, external providers, children or parents which the said organisation(s) deem relevant to child protection enquires
- Inform the Social Worker (if applicable) and Local Authority from where the child is from of the referral in writing and the procedures taken once the referral has been made to the LADO,
- keep the person informed who initially reported the allegation of the decision made
- attend all strategy meetings organised to discuss allegations made against staff and/or volunteers and will provide the meeting with any necessary reports as required

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- ensure that a quick resolution of that allegation should be a clear priority to the benefit of all concerned. At any stage of consideration or investigation, all unnecessary delays should be eradicated.

### The Local Authority Designated Officer (LADO) will:

- work with and alongside Libra when dealing with allegations against Libra staff;
- call for the intervention of the police and children's care services if they feel the allegation is very serious;
  - provide advice and liaison with Children's Services
  - liaise with the police
  - monitor the progress of cases
  - ensure that cases are dealt with as quickly as possible
  - ensure the process is fair and thorough
  - dealt with in a consistent way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation
- advise Libra on what, if anything, may be shared with the person who is the subject of an allegation. They should decide, in consultation with the police and/or any other relevant agency, what may be shared in situations that may possibly lead to a criminal investigation.
- discuss the matter with Libra and, where necessary, obtain further details of the allegation and the circumstances in which it was made. If there is cause to suspect that a child is suffering, or is likely to suffer, significant harm, the LADO will immediately refer to children's social care services and ask for a strategy meeting to be convened promptly. This discussion should include the LADO and a representative of Libra. If there is no cause to suspect that 'significant harm' is an issue, but a criminal offence may have been committed, the LADO should immediately inform the police and convene a meeting to decide whether a police investigation is required. That discussion should involve the LADO, a representative of Libra and the police. If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take into account that teachers and other school staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour.
- There are five possible outcomes of the initial evaluation by the LADO:
  - No further action required
  - disciplinary action
  - police investigation
  - referral on to a list of persons considered unsuitable to work with children
  - A combination of these.
- Where a child has suffered significant harm, or there may be a criminal prosecution, the children's social care services, or the police as appropriate, should consider what support the child or children involved may need.

### Disciplinary Action

- If the initial evaluation establishes that the allegation does not involve a possible criminal offence, it is dealt with by Libra. In such cases, if the nature of the allegation does not require formal disciplinary action, appropriate action should be taken within 3 working days. If a disciplinary hearing is required and no further investigation is necessary, the hearing should be held within 15 working days.

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- Where further investigation is required to inform consideration of disciplinary action, Libra should discuss who will undertake that with the LADO. The investigating officer should aim to provide a report to Libra within 10 working days. On receipt of the report of the disciplinary investigation, the Directors should decide whether a disciplinary hearing is needed within 2 working days, and if a hearing is needed it should be held within 15 working days.
- If children's social care services have made enquiries to determine whether the child or children are in need of protection, Libra should take account of any relevant information obtained from these enquiries when considering disciplinary action. In these cases, Libra will follow local arrangements to resolve cases without delay.
  - Note: Working Together To Safeguard Children states that "the timescales given are not performance indicators but they provide useful targets to aim for that are achievable in many cases" (HM Government, 2010).
- If a criminal investigation is required, the police will aim to complete their enquiries as quickly as possible. They should, from the outset, set target dates for reviewing the progress of the investigation and for consulting with the Crown Prosecution Service (CPS) about whether to proceed with the investigation, charge the individual with an offence, or to close the case.
- Wherever possible that review should take place no later than four weeks after the initial evaluation and if the decision is to continue to investigate the allegation, dates for subsequent reviews should be set at that point.
- If the police and/or CPS decide either not to charge the individual or to administer a caution, or a court acquits the person, the police should, without delay pass all information relevant to a disciplinary case to Libra. If the person is convicted of an offence, the police should also inform Libra immediately so that appropriate action can be taken (this could include disciplinary action) and how to proceed. The options will depend on the circumstances of the case and the consideration will need to take into account the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.
- If the allegation is substantiated, and on conclusion of the case Libra dismisses the person in line with the Disciplinary Policy or ceases to use the person's services, or the person ceases to provide his/her services, the employer should consult the LADO about whether a referral to the Independent Safeguarding Authority is required. If a referral is appropriate, the report should be made within **one month**.

### The Named Person in the Allegation

The named person in the allegation will:

- be kept informed of the course of action after the initial consultation with the Local Authority Designated Officer;
- be kept informed of all stages of the investigation;
- be advised to contact their union or professional association as soon as an allegation has been made;
- be advised by their union or professional association at all stages of the investigation

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### **Suspension of the Named Person in the Allegation**

The possible risk of harm to children posed by an accused person should be evaluated and managed in respect of the child(ren) involved in the allegations. In some rare cases the Case Manager will consider suspending the accused until the case is resolved. If the Case Manager is concerned about the welfare of other children in the community or the teacher's family, those concerns will be reported to the Designated Safeguarding Officer or police. However, suspension is highly unlikely to be justified on the basis of such concerns alone.

Suspension is not an automatic response and will only take place if:

- a child or children are at risk of harm;
- the allegation is of a very serious nature;
- it will help in the smooth running of the investigation

Alternative arrangements will be considered as long as the Designated Safeguarding Office, police and Children's Social Care Services have no objections to the member of staff continuing to work during the investigation. Based on risk, the following alternatives will be considered before suspending a member of staff:

- redeployment within the school so that the individual does not have direct contact with the child or children concerned;
- providing an assistant to be present when the individual has contact with children;
- redeploying to alternative work in the school so the individual does not have unsupervised access to children;
- moving the child or children to classes where they will not come into contact with the member of staff, making it clear that this is not a punishment and parents have been consulted; or
- temporarily redeploying the member of staff to another role in a different location

These alternatives allow time for an informed decision regarding the suspension and possibly reduce the initial impact of an allegation, however, it will completely depend upon the nature of the allegation. Consideration will be given to the potential permanent professional reputational damage to employees, that can result from suspension where an allegation is later found to be unsubstantiated or maliciously intended.

If immediate suspension is considered necessary, The Case Manager will consider the rationale and justification for such a course of action which will need to be agreed and recorded accordingly. It will include what alternatives to suspension have been considered and why they were rejected.

Where it has been deemed appropriate to suspend the person, written confirmation should be dispatched within one working day, giving as much detail as appropriate for the reasons for the suspension. Libra will provide appropriate support as well as details of the person's named contact within the company.

Where required, Libra will canvass police and children's social care services for views about whether the accused member of staff needs to be suspended from contact with children, however, Libra acknowledges that Police involvement does not make it mandatory to suspend a member of staff and this decision will be taken on a case-by-case basis following appropriate and full risk assessment based on all available details.

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### Resignations and 'compromise agreements'

The fact that a person tenders his/her resignation, or ceases to provide their services, must not prevent an allegation being followed up in accordance with these procedures. Libra will make sure every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to co-operate with the process. Wherever possible the accused will be given a full opportunity to answer the allegation and make representations about it. The Process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be substantiated on the basis of all the information available, will continue even if that cannot be done or the accused 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.

A referral to the DBS and similarly consideration will be given to referring the matter to the National College for Teaching and Leadership (NCTL) to consider prohibiting the individual from teaching. The DBS referral will be made if the criteria are met (the person has harmed, or poses risk of harm, to a child or vulnerable adult; where the harm test is satisfied in respect of that individual; where the individual has received a caution or conviction for a relevant offence, or if there is reason to believe that individual has committed a listed relevant offence; and that individual has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left.

'Settlement/Compromise agreements' – whereby a person agrees to resign, the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference – will not be used in these cases. However, Libra will not use a Settlement/Compromise agreement if the accused resigns or their services cease and they have met the criteria (listed in the previous paragraph). Libra will not use these type of agreements in cases where the accused refuses to cooperate or resign before the person's notice period expires.

### Support

Libra will ensure it provides:

- support for the child/ren, parents or carers involved
- support for the person who is the subject of the allegation

This includes keeping all parties informed of concerns/allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by the children's social care services or police.

The individual will be advised to contact their trade union representative – if they have one, or a colleague for support. Libra will consider welfare counselling or medical advice assistance.

### Parents / carers

Parents/carers of a child or children involved should be told about the allegation as soon as possible if they do not know about it already. In the event that a strategy discussion is required Libra will seek advice from the LADO prior to speaking with them to ensure the suitability of the information being disclosed. They should be kept informed about the progress of a case, and

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told of the outcomes where there is not a criminal prosecution. That includes the outcome of any disciplinary process.

### Person who is subject of the allegation

The employer should also keep the person who is the subject of the allegation informed of the progress of the case, and arrange to provide appropriate (named) support while the case is ongoing. If the person is suspended, the employer should also make arrangements to keep the individual informed about developments in the workplace.

### Unfounded Allegations

Allegations that are found to have been malicious should be removed from personnel records and any that are not substantiated, are unfounded or malicious should not be referred to in employer references.

Unfortunately, the difficulties of some of the young people and children we work with can result in occasions when allegations made are proved to be malicious and unfounded after investigation. In this situation the risk assessment for the young person is reviewed to consider this risk and behaviour management strategies are reviewed to reflect this. Placement Plans, Behaviour Management Plan, Individual Education Plans and all other associated risk assessments are amended and updated. In such cases, due consideration will be given regarding whether any disciplinary action is appropriate against the pupil who made it; or whether the police should be asked to consider if action might be appropriate against the person responsible, even if he or she was not a pupil.

### Records of Allegations

A detailed record of each allegation must be kept which clearly shows the:

- nature of the allegation
- follow-up action
- decision reached
- action taken
- decisions reached

Written records must be:

- kept on the person's confidential personnel file with a copy given to the person concerned
- kept in a person's confidential personnel file and a copy should be given to the individual. Such information should be retained on file, including for people who leave the organisation, at least until the person reaches normal retirement age, or for 10 years if that is longer. (Libra follows employment records and retention guidance published by the Information Commissioner)

Details of allegations that are found to be malicious (that is allegations made to deliberately to deceive) will be removed from personnel records and will not be included in any future references.

In cases of an allegation being deliberately invented or malicious we will consider taking action against those who have made false accusations.

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In cases where an allegation was proven to be false, unsubstantiated or malicious these will not be included in any references we provide. A history of repeated concerns or allegations which have all been found to be false, unsubstantiated or malicious will also not be included in any reference.

### **Confidentiality**

Every effort should be made to maintain confidentiality and guard against publicity while an allegation is being investigated and considered. It can be very helpful to have a planned media response (eg, an agreed press release) in case of a breach in confidentiality.

Libra follows the Education Act 2002 in this regard particularly relating to reporting restrictions preventing 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 our school. These reporting restrictions apply until the point that the accused person is charged with an offence, or until the Secretary of State publishes information about an investigation or decision in a disciplinary case arising from the allegation. The restrictions also cease to apply if the individual to whom the restrictions apply, effectively waives their right to anonymity by going public themselves, or by giving their written consent for another to do so or if a judge lifts restrictions in response to do so.

Libra acknowledges that the publication of material that may lead to the identification of the teacher who is the subject of the allegation is prohibited (this includes any 'speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public').

When an allegation has been made and during the investigation we will do everything possible to maintain confidentiality.

### **Conclusion**

At the conclusion of a case in which an allegation is substantiated, the Designated Safeguarding Officer will review the circumstances of the case with appropriate staff to determine whether there are any improvements to be made to Libra's procedures or practice, to help prevent similar events in the future. This will include issues arising from the decision to suspend the member of staff, the duration of the suspension and whether or not suspension was justified. The member of staff reviewing the case will consider how future investigations of a similar nature could be carried out without suspending the individual.

### **Raising Awareness of this Policy**

We will raise awareness of this policy via:

- the School Handbook/Prospectus
- the Staff Handbook
- the school website
- meetings with school staff
- information displays in the main school entrance

### **Training**

All Libra Staff:

- have equal chances of training, career development and promotion
- receive training related to this policy on induction;

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- receive periodic training so that they are kept up to date with new information;
- receive equal opportunities training on induction

### Equality Impact Assessment

Under the Equality Act 2010 we have a duty not to discriminate against people on the basis of their age, disability, gender, gender identity, pregnancy or maternity, race, religion or belief and sexual orientation.

This policy has been equality impact assessed and we believe that it is in line with the Equality Act 2010 as it is fair, it does not prioritise or disadvantage any pupil and it helps to promote equality at this school.

### Monitoring the Effectiveness of the Policy

The practical application of this policy will be reviewed annually or when the need arises by the Senior Designated Person, the Directors and or the Headteacher.

### Linked Policies

<ul style="list-style-type: none"><li>• Safeguarding Policy and Procedures</li></ul>	<ul style="list-style-type: none"><li>• Disciplinary Procedure</li></ul>
<ul style="list-style-type: none"><li>• Staff Code of Conduct</li></ul>	<ul style="list-style-type: none"><li>• Managing a Disclosure Procedures</li></ul>
<ul style="list-style-type: none"><li>• Data Protection and the General Data Protection Regulation (GDPR)</li></ul>	

## Libra School Initial Equality Impact Assessment

Policy Title	The aim(s) of this policy	Existing policy (✓)	New/Proposed Policy (✓)	Updated Policy (✓)
<b>Managing Allegations Against Staff</b>	Yes stated			✓

This policy affects or is likely to affect the following members of the school community (✓)	Children	School Staff	Parents/carers	Directors	School Volunteers	School Visitors	Wider School Community
	yes	yes	yes	yes	yes	yes	yes

Question	Equality Groups															Conclusion													
	Age			Disability			Gender			Gender identity			Pregnancy or maternity			Race			Religion or belief			Sexual orientation			Yes	No			
<b>Does or could this policy have a negative impact on any of the following?</b>	Y	N	NS	Y	N	NS	Y	N	NS	Y	N	NS	Y	N	NS	Y	N	NS	Y	N	NS	Y	N	NS					
		✓			✓			✓			✓			✓			✓			✓			✓			✓			
<b>Does or could this policy help promote equality for any of the following?</b>	Y	N	NS	Y	N	NS	Y	N	NS	Y	N	NS	Y	N	NS	Y	N	NS	Y	N	NS	Y	N	NS	Y	N	NS		
	✓			✓			✓			✓			✓			✓			✓			✓			✓				✓
<b>Does data collected from the equality groups have a positive impact on this policy?</b>	Y	N	NS	Y	N	NS	Y	N	NS	Y	N	NS	Y	N	NS	Y	N	NS	Y	N	NS	Y	N	NS	Y	N	NS		
	✓			✓			✓			✓			✓			✓			✓			✓			✓				✓

<b>Conclusion</b>	We have come to the conclusion that after undertaking an initial equality impact assessment that a full assessment is not required.
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## Libra School Policy Evaluation

Points to be considered	Yes	No	N/A	Please supply evidence
• Policy annually reviewed	x			
• Policy in line with current legislation	x			
• Coordinator in place	x			
• Nominated governor in place			x	
• Coordinator carries out role effectively	x			
• Headteacher, coordinator and nominated governor work closely	x			
• Policy endorsed by governing body			x	
• Policy regularly discussed at meetings of the governing body			x	
• School staff aware of this policy	x			
• School staff comply with this policy	x			
• Children aware of this policy	x			
• Parents aware of this policy	x			
• Visitors aware of this policy	x			
• Local community aware of this policy			x	
• Funding in place			x	
• Policy complies with the Equality Act	x			
• Equality Impact Assessment undertaken	x			
• Policy referred to the School Handbook	x			
• Policy available from the school office	x			
• Policy available from the school website	x			
• School Council involved with policy development	x			
• All stakeholders take part in questionnaires and surveys			x	
• All associated training in place	x			
• All outlined procedures complied with	x			
• Linked policies in place and up to date	x			
• Associated policies in place and up to date	x			
<b>A statement outlining the overall effectiveness of this policy</b>				
It is effective and suitable for purpose				