

Managing Allegations against an Employee Procedure (Residential and Education Settings)

The NFA Group prioritises its safeguarding duties and responsibilities towards children, young people and vulnerable adults in its care, and all employees and agency staff.

The NFA Group recognises the importance of ensuring that the correct processes are followed as soon as an allegation is made; this supports the investigation process and protects all those involved.

This procedure should be read in conjunction with the NFA Group Safeguarding Policy, Keeping Children Safe in Education (2019) and Working Together to Safeguard Children (2018), and the NFA Group Disciplinary and Grievance policies. It should also be read in conjunction with statutory guidance issued by the devolved governments of the United Kingdom. **Legislation and statutory guidance always supersedes this guidance.**

These procedures are for managing any allegations against employees within the NFA Group where concerns are raised that adults may pose or present a risk, or that they may be behaving in such a way as to pose a risk to children, young people or vulnerable adults, or that they may be abusing them.

This document outlines the procedures that **MUST** be adhered to in order to safeguard our children, young people and vulnerable adults. Any failure to follow this procedure may be dealt with under the NFA Group Disciplinary policy.

For the avoidance of doubt, the use of the word 'child' or 'young person' within this document refers to anyone under the age of 18 years; or under 25 if they have a special educational need. This policy also relates to adults in the care of NFA Group.

This policy does not apply to foster carers/parents.

This policy should be read in conjunction with each setting or provision's Local Authority 'Managing Allegations' procedures.

1.1 This procedure should be applied if an employee/s have:

- Behaved in a way that has, or may have, harmed a child, young person and adult at risk;
- Possibly committed a criminal offence against, or related to, a child, young person or adult at risk;
- Behaved in a way that indicates they are unsuitable to work with children, young people and adults at risk. This can include behaviour in their personal life that raises safeguarding concerns.

- 1.2** The NFA Group takes its responsibilities seriously and will always act in the best interests of children, young people and adults in its care when managing allegations. NFA Group will adhere to statutory guidance including, but not limited to, Keeping Children Safe in Education (2019) and Working Together (2018).
 - 1.3** Relationships and communication with partner agencies **MUST** be ones of openness and transparency. Information **MUST** always be shared with appropriate partner agencies when allegations have been made. Data protection is not a barrier for sharing safeguarding information.
 - 1.4** If the information received indicates that a possible crime has been committed, this **must** be passed **immediately** to the police, regardless of whether the person making the complaint wishes to formally inform the police.
 - 1.5** The National Quality Officer for Safeguarding and the Human Resources Employee Relations Manager, **MUST** have full oversight of all allegations made against employees. This means that all allegations **MUST** be notified to safeguardingnotifications@nfa.co.uk within **24 hours**.
 - 1.6** The Senior Leader/Assistant Director for the setting in which the allegation has occurred will have full management responsibility for the allegations. The National Quality Officer for Safeguarding will offer support, advice and guidance to Senior Leaders and Assistant Directors when managing allegations.
 - 1.7** The relevant Human Resources Business Partner/Manager will be responsible for advising on all aspects of Human Resources from a business and employee relations perspective.
 - 1.8** The Group Director of Human Resources, the Group Director for Quality and the Safeguarding Committee will have full oversight of any serious allegations which potentially have significant implications for the safety and wellbeing of children, young people and adults in our care.
 - 1.9** Safeguarding processes and procedures **MUST** take precedence over other disciplinary processes. However, it is recognised that there may be occasions when the two processes can run alongside one another. Safeguarding allegations must be investigated first and foremost, prior to any other practice or conduct issues being investigated.
- 2. What to do**
- 2.1** Within **two hours** of an allegation or concern being raised regarding an employee, this **must** be reported to the line manager/s with responsibility for the employee/s. If the concern is regarding a line manager, then the person must raise the concern with the named person of the Senior Leadership Team who oversees that manager. If the concern is regarding a member of the Senior Leadership Team, then the

allegation/concern must be reported to the Managing Director of that division or the Group Director for Quality. All NFA Group employees have access to a confidential and anonymous whistle blowing facility via SafeCall 0800 915 1571 or email acorngroup@safecall.co.uk. Employees are to familiarise themselves with the NFA Group Whistle Blowing policy.

- 2.2** If the allegation or concern relates to a serious incident of harm such as a serious physical assault or sexual assault/abuse or harassment, this **must** be **immediately** referred to the police. The Human Resources Employee Relations Manager will immediately inform the Director of Human Resources, Group Director for Quality and the Managing Director. In cases where there may be possible media attention, the Human Resources Employee Relations Manager will inform the NFA Group's Corporate Affairs Director.
- 2.3** On receipt of the allegation, the receiving manager **MUST** immediately inform the National Quality Officer for Safeguarding and the Human Resources Employee Relations Manager. All allegations or safeguarding concerns must be reported to them on the same day and via email to **safeguardingnotifications@nfa.co.uk**. While advice and guidance can be provided informally via a telephone call, managers must ensure that the allegation is formally written on an email and shared with the National Quality Assurance Lead for Safeguarding and the Human Resources Employee Relations Manager via this process.
- 2.4** On the **same day** that a safeguarding concern/allegation is made, detailed records of the safeguarding concern/allegation must be completed. Records **MUST** include the names of all relevant employees, the detail of the allegation, any actions taken and a copy of the referral to the Designated Officer in the Local Authority (LADO). These must be shared with the relevant manager, the National Quality Assurance Officer for Safeguarding and the Human Resources Employee Relations Manager. These must be shared via email to **safeguardingnotifications@nfa.co.uk**.
- 2.5** Within **one working day**, a telephone conference call must be convened between the Headteacher/Registered Manager, Assistant Director/Responsible Individual, the National Quality Assurance Officer for Safeguarding and the Human Resources Employee Relations Manager. The purpose of the conference call is to consider:
 - The safety and welfare of the child, young person or vulnerable adult involved, and look at any support which may be required;
 - What support may be required for the employee/s who have made the allegation;
 - What support may be required for the employee/s about whom the allegation is made;
 - Whether the employee/s, about whom the allegation is made, should be suspended without prejudice, pending an investigation.
- 2.6** When considering suspension, it is important to consider the possible risk of harm to other children, young people or vulnerable adults who NFA Group are responsible for;

as well as safeguarding the employee/s, about whom an allegation has been made. Consideration must be given as to whether it is safe for the employee/s to have continued access to children, young people or vulnerable adults, and whether the potential risk can be managed. Consideration must be given to all statutory guidance such as Keeping Children Safe in Education (2019) and Working Together (2018).

- 2.7** If the allegation or safeguarding concern relates to a serious incident of harm such as a serious physical assault, physical abuse, sexual assault, sexual harassment or sexual abuse, the employee **MUST** be suspended without prejudice, pending further investigation in line with the disciplinary procedure.
- 2.8** The decision to suspend must be made jointly within the conference call by the Headteacher/Registered Manager, Assistant Director/Responsible Individual, the National Quality Assurance Officer for Safeguarding and the Human Resources Employee Relations Manager. The Human Resources Employee Relations Manager will inform the Group Director for Quality and the Group Director of Human Resources of all suspensions. A welfare officer will be appointed to retain contact with the employee/s during suspension.
- 2.9** The Human Resources Employee Relations Manager will liaise with the Information Technology department to ensure that all electronic devices and access to emails are locked. Where necessary, arrangements will be made for any electronic devices to be returned during the suspension period. This includes work laptops, computers, mobile phones and any other device provided.
- 2.10** Initial fact finding may be carried out unless it is a serious safeguarding concern in which case the police are to be notified immediately. However, when fact finding, the safeguarding concern/allegation **MUST NOT** be shared with any employee/s at this stage. The National Quality Assurance Officer for Safeguarding and the Human Resources Employee Relations Manager will provide advice and guidance as to how to undertake the fact find if needed.
- 2.11** All fact-finding documents **MUST** be emailed to the National Quality Officer for Safeguarding and the HR Employee Relations Manager where they will be stored securely.
- 2.12** Within **one working day**, a referral must be made to the Designated Officer in the Local Authority (LADO) or the Local Authority Adult Safeguarding Lead by the line manager receiving the allegation. It is the responsibility of the Headteacher or Registered Manager to ensure that they are familiar with, and act in accordance with, the Local Authority Safeguarding Procedures as detailed on the Local Safeguarding Partnership website for that area. Compliance with Local Safeguarding Procedures must always take priority. Residential and fostering services **MUST** notify Ofsted or the equivalent regulatory body of all allegations made against staff.
- 2.13** All placing authorities **MUST** be notified of any allegations within **one working day**. It is the responsibility of the line manager of the employee/s, about whom an

allegation is made, to ensure that placing authorities are updated as to the allegation and subsequent investigation, including feeding back the outcome of any investigation.

- 2.14** It is the responsibility of the line manager receiving the allegation or safeguarding concern to ensure that they provide weekly updates to the National Quality Officer for Safeguarding and the Human Resources Employee Relations Manager via email on **safeguardingnotifications@nfa.co.uk**.
- 2.15** It is the responsibility of the line manager to frequently check the progress of the matter with the police or other investigating bodies, in order to monitor the length of time an employee is in suspension.

3. What happens next?

- 3.1** In any instances where the police have been informed of a safeguarding concern/allegation, all other processes such as disciplinary processes, should cease until the police state that they have finished their own investigation. All attempts must be made to fully cooperate with any police investigation. Communication must be open and transparent, with information being fully shared so as to support the police in their duty to investigate. Line managers must maintain regular contact with the police in order to check on progress and where possible, reduce the length of time an employee is suspended. Written confirmation **MUST** be received from the police after their investigation has finished and prior to any internal investigation starting. If an employee has breached procedures in any other manner which is **NOT** a safeguarding concern, the line manager can discuss whether an investigation into this can take place separately from the safeguarding investigation.
- 3.2** Where the LADO has stated that a Section 47 investigation is to be carried out by either or both the police and Children's Services, no other investigations must be carried out. It is the Operational Manager's responsibility to ensure that they fully cooperate and support the police and/or Children's Services with their investigations.
- 3.3** Where the LADO states that an internal investigation can be carried out, this must be confirmed in writing by the LADO. A conference call must be convened between the Headteacher/Registered Manager, Assistant Director/Responsible Individual, the National Quality Officer for Safeguarding and the Human Resources Employee Relations Manager to agree who will be appointed to investigate the safeguarding concern/allegation, who will provide Human Resource support and the timescale for this. It will also be agreed who will lead any potential disciplinary hearing and appeal hearing as a precautionary measure.
- 3.4** Where possible, it is best practice for an independent employee, outside of the immediate service where the allegation has been made, to complete the investigation. This is to ensure any investigations are independent and rigorous.

- 3.5** It is the responsibility of the person completing the investigation to refer any other safeguarding information which arises within the investigation to the LADO.
- 3.6** The outcome of the investigation **MUST** be fed back to the LADO and placed in authority within **one working day** of the investigation being signed off by the Assistant Director, the National Quality Officer Safeguarding and the Human Resources Employee Relations Manager.
- 3.7** Investigations must include: interviewing the employee about whom the safeguarding concern/allegation relates to, interviewing key witnesses (children, young people and adults), reading any relevant documentation, visiting sites or areas of interest and ensuring that the procedure and process regarding disciplinary is adhered to including the completion of an investigation report.
- 3.8** If the LADO states that there is no further action from their perspective, the matter **MUST** still be investigated. If during the course of the fact finding, it becomes apparent that there are no concerns, the findings **MUST** still be written up and this process followed.
- 3.9** Investigations **MUST** be written onto the NFA Group's investigation template (see appendix i). Conclusions and recommendations must be made based on the factual evidence collated as part of the investigation. The investigation report **MUST** make a recommendation as to whether there is a case to answer and whether it will progress to a disciplinary hearing (see appendix ii). Investigation reports can make recommendations regarding changes to processes or further management review/s required. It is the responsibility of the disciplining officer and their HR support to inform the Headteacher/Assistant Director of the outcome.
- 3.10** The investigation report **MUST** be shared with the National Quality Officer for Safeguarding and the Human Resources Employee Relations Manager. The investigator must provide weekly updates as they investigate.
- 3.11** If the employee resigns prior to the end of the investigation and disciplinary process, the process **MUST** still be followed including convening a disciplinary meeting and ensuring that any actions such as referrals to the Disclosure and Barring Service and/or the Health and Care Professions Council are completed. Compromise dismissals **WILL NOT** occur when there are safeguarding concerns or allegations.
- 3.12** All allegations and investigations will be monitored on a weekly basis by the National Quality Officer for Safeguarding and the Human Resources Employee Relations Manager. The Group Director for Quality and the Director of Human Resources will also have weekly oversight of this monitoring spreadsheet.
- 4.0 Referrals to the Disclosure and Barring Service (DBS)**

- 4.1 If an employee is dismissed from employment due to a safeguarding concern or allegation, a referral to the Disclosure and Barring Service **MUST** be made. **It is an offence not to make a referral to the Disclosure and Barring Service.**
- 4.2 If a DBS referral is made, at the point of completion NFA Group managers must notify the Safeguarding Sub-Committee of the referral and any other possible referrals to any relevant professional body in the United Kingdom, relating to the allegation made.
- 4.3 All professional conduct issues which may require a referral to a professional body, whether they relate to safeguarding children or not, must be referred to this sub-committee. For example, a teacher may be prohibited from teaching for a wide range of reasons which do not relate to the safety of children or young people.
- 4.4 The Safeguarding Sub-Committee will support the decision-making process to refer an employee to DBS and/or a professional body, and make it clear who is responsible for the submission of any relevant documentation. This will normally be delegated to a senior manager within the division.
- 4.5 All records relating to the investigation, disciplinary process, appeal and subsequent referrals to the DBS and/or professional body **MUST** be shared with the Human Resources Employee Relations Manager, where they will be securely stored. All information must be retained on employees' personnel files.

5.0 Complaints

- 5.1 The NFA Group recognises that it can be a distressing time for employees who have had allegations made against them. Support will be provided which will include weekly welfare calls. However, the appointed welfare officer must not share details of the investigation without express consent. Employees can access a counselling service to provide them with further support.
- 5.2 All efforts must be made to ensure that rigorous timescales for the completion of investigations are adhered to.
- 5.3 If an employee is unhappy with the way in which a safeguarding concern or allegation is being managed or investigated, they are able to complain to the investigating officer. The NFA Group operates a system whereby employees are able to whistle blow anonymously if they have concerns via Safecall 0800 915 1571 or via email acorngroup@safecall.co.uk.

Author	Louise Hernon
Document Title	Managing Allegations against an Employee Procedure
Review Date	August 2020

