

## **Dealing with Allegations of Abuse against Staff**

### **Legislation / guidance that informs this policy:**

- The Children Act (1989)
- Section 175 of the Education Act (2002) (local authorities, governing bodies of maintained schools and institutions in the further education sector)
- Section 157 of the Education Act (2002) and the Education (Independent School Standards) (England) Regulations (2010, updated March 2016)
- The Children Act 2004
- Section 11 of the Children Act (2004) (other agencies)
- Sections 141F, 141G and 141H3 of the Education Act (2002)
- Teacher Misconduct: the prohibition of teachers (Oct 2015)
- Keeping Children Safe in Education (Sept 2018)

### **Other Red Balloon policies that should be read in conjunction with this one:**

- Staff Code of Conduct
- Complaints
- Whistleblowing
- Safeguarding

### **Statement of Intent:**

Red Balloon acknowledges the importance of protecting all members of its communities (students and staff) from malpractice or false allegation of such. The following policy reflects the requirements of the DfE Guidance provided in Keeping Children Safe in Education (Sept 2018).

Red Balloon seeks to ensure the highest levels of practice in all areas of its work. In pursuing that aim, we encourage anyone who has concerns about practice to raise them. Where the raising of such concerns is so serious that it suggests serious malpractice on the part of a staff member, then Red Balloon strives to investigate carefully with due regard to the needs of the complainant(s) and the person against whom the allegation is made.

### **Responsibility for Implementation**

It is the responsibility of all managers within Red Balloon to ensure that any allegations of abuse are dealt with objectively and in accordance with this policy.

## **Principles:**

A core principle of practice is that the procedures for dealing with allegations need to be applied with common sense and judgement.

Red Balloon recognises the importance of having procedures for dealing with allegations. The organisation seeks to give all staff and volunteers an understanding of what to do if they receive an allegation against another member of staff or they themselves have concerns about the behaviour of another member of staff.

- Red Balloon is committed to ensuring the health, welfare and safety of all members of the Red Balloon community (staff, volunteers and students).
- As part of that commitment, Red Balloon will ensure that no person who behaves in an unsuitable, inappropriate or criminal fashion towards young people is allowed to work within the organisation.
- All allegations must be reported as soon as they become apparent... in the first instance to the coordinator, or, should the allegation concern the coordinator, to the director of education (currently Bob Sproson). Any allegation concerning any member of 'Group' (the organisation's management body), should be made directly to the chief executive.
- In response to an allegation, all other options should be considered before suspending a member of staff: suspension should not be the default option. An individual should be suspended only if there is no reasonable alternative.
- Every attempt will be made to maintain confidentiality.
- It is in everyone's interest to resolve cases as quickly as possible.
- Investigations will be fair and thorough.
- The fact that a person tenders his or her resignation, or ceases to provide his/her services, must not prevent an allegation being followed up in accordance with these procedures.
- Allegations that are found to be malicious will be removed from personnel records; any that are unsubstantiated, unfounded or malicious, will not be referred to in employer references.

- In those cases wherein students are found to have made malicious allegations, consideration will be given as to whether they can remain within the Red Balloon community. If it is believed that a criminal offence has been committed by the student making the allegation, then further action may be taken.

### **Duties as an employer:**

Red Balloon recognizes that it has a duty of care to all its employees, and will, therefore, ensure that effective support is provided for anyone facing an allegation and provide the employee with a named contact if they are suspended.

This policy concerns the management of cases of allegations that might indicate that a person is unsuitable to continue to work with children in their present position, or in any capacity. The policy will be followed in any case wherein it is alleged that any member of staff (including volunteers) is alleged to have:

- behaved in a way that has harmed, or may have harmed, a child;
- committed a criminal offence against or related to a child;
- behaved towards a child or children in a way that indicates he or she is unsuitable to work with children.

In any such case, Red Balloon management will ensure that the allegation is dealt with quickly, in a fair and consistent way that provides effective protection for the child, and, at the same time, appropriately supports the person who is the subject of the allegation.

### **Process:**

*NB Throughout the remainder of the policy where a responsibility or role is ascribed to the coordinator, it is expected that it will be carried out together with a member of 'Group', or, if the allegation made is against the coordinator or a member of 'Group', then a designated person from within 'Group' will carry out the functions... at all times the chief executive will be kept informed.*

Any person (student, staff, volunteer) working within a Red Balloon Centre should raise a concern about the practice of a member of staff or volunteer if they believe that something that that member of staff has done, or is doing, is strongly contrary to Red Balloon practice, or, conceivably, constitutes something that will lead to disciplinary or criminal action being taken. In particular they must raise a concern if they believe that any behaviour is threat to a student's safety.

Once an allegation has been made, the person to whom it is made

(coordinator or member of group, or chief executive) must consider the nature of the alleged 'offence'...

In considering each allegation (throughout the process) the following 'categories of conclusion' should be considered:

- a. **Substantiated** – there appears to be sufficient identifiable evidence to prove the allegation.
- b. **False** – there is sufficient evidence to disprove the allegation.
- c. **Malicious** - there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false.
- d. **Unfounded** – there is no evidence or proper basis that supports the allegation being made. This conclusion might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances.
- e. **Unsubstantiated** - this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

Any allegation against a member of staff must always be discussed with a designated officer working for the LSCB (local safeguarding children board).

1. If the allegation is deemed to describe behaviour that is contrary to good child protection practice or constitutes abuse, or to be of a criminal nature, then the local authority officer will direct what action should be taken.
2. If it is deemed by the officer not to be criminal and not to pose physical or emotional harm to a student, then internal action should be taken to ensure that the issue is addressed. This will entail a process whereby the details of the allegation are discussed with the relevant member of staff and an agreement is reached regarding future practice to ensure that it accords with requirements stated within Red Balloon's 'Safeguarding Policy' and 'Staff Code of Conduct'.

Red Balloon is committed to ensuring that all allegations are followed up and taken seriously. It is equally committed to ensuring that each case is considered fairly and that, in any case wherein it is considered that an allegation has been made wrongly, unfairly or maliciously, then no damage is done to the standing or career of the person against whom the allegation was made.

Once the local authority designated officer has been contacted s/he will discuss the allegation with the coordinator (or whoever makes the contact) to confirm details of the allegation and establish that it is not demonstrably false

or unfounded. This information sharing will be, in the first instance, on an informal basis. The local authority officer will make an informed decision regarding the necessity of any further action eg whether there is a need for a formal strategy meeting, and who needs to be made aware of the allegation (possibly chair of trustees, parents or the accused). Each case brought to the local authority officer may be different and therefore may result in a different process being taken. Should a criminal offence be deemed to have been committed following discussing with the local authority officer, then the matter will be referred to the police.

If there is cause to suspect that a child is suffering or is likely to suffer significant harm, or a possible criminal offence might have been committed, the local authority will request that a strategy meeting be convened immediately. The coordinator (or other person leading the investigation if it concerns the coordinator or member of Group), after discussion with the local authority designated officer, will inform the accused person about the allegation as soon as possible. Where a strategy discussion is needed, or police or children's social care may need to be involved, the coordinator will be advised not to inform the accused person until those agencies have been consulted, and have agreed what information can be disclosed to the person.

A Local Safeguarding Children Board (LSCB) strategy meeting will be convened when an allegation is made against an individual who works with children and that allegation is considered to be substantiated and of sufficient severity. This meeting will include senior representatives from health, police, the local authority, and legal services as well as the coordinator or the line manager of the accused. The meeting will normally be convened within three working days of the decision to meet being taken.

The strategy meeting will focus on the suspected or actual risk to children posed by the adult about whom there are concerns raised or allegations made. In a strategy discussion, or during the initial evaluation of the case, the agencies concerned will share all relevant information they have about the person who has made the allegation and about the accused member of staff. An agreement will be reached in the strategy meeting regarding who will carry out an investigation and how this will take place, if it is deemed necessary. This will include consideration of the need to undertake:

- a child protection investigation,
- a criminal investigation,
- fact finding under the complaints procedure.

Consideration will be given as to whether the accused member of staff needs to be suspended from contact with children; in line with current guidance this is not the default position – a 'sensible' and 'reasonable' decision will be reached. Further consideration will be given, if necessary, to the relevant

support mechanisms, for the child or children against whom the alleged offences have been committed and the accused member of staff.

### **Communication:**

The coordinator will inform the parents or carers of a child or children involved about the allegation (if they are not already aware of it) as soon as possible after discussing the allegation with the local authority officer.

The parents should also be kept informed regarding the progress of the case by the coordinator, and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process (NB the deliberations of a disciplinary hearing, and the information taken into account in reaching a decision cannot normally be disclosed, but the parents or carers of the child should be told the outcome). The content and discussion may be agreed between the coordinator and the local authority officer. The coordinator will also keep the accused member of staff informed of the progress of the case and consider what other support is appropriate for the individual. The local authority officer will discuss with the coordinator how best to inform the individual of any updates.

### **Suspension:**

At any stage throughout the process, the accused member of staff may be suspended, without prejudice (this is a neutral act, and conveys no indication of 'guilt'), on full pay from work, whilst further investigations take place. This course of action will be appropriate where any one of the following pertains:

- there is a cause to suspect a child is at risk of significant harm;
- the allegation warrants investigation by the police;
- the allegation is so serious that it might be grounds for dismissal.

### **Conclusion of a case:**

If the police elect to pursue criminal proceedings, then, should the person against whom the allegation has been made, be found guilty, the court will decide the appropriate action to be taken in legal terms: in employment terms, the person's contract will be terminated immediately. The police will ensure that the person's name (if appropriate) is placed on any necessary lists (eg barred list, prohibited from teaching list) and that records are maintained so that, should the person seek further employment at a future date, the necessary information will be provided to any prospective employer.

If the investigation is of a non criminal nature, the outcome of the process will be shared with the parents of the child or children concerned after taking advice from the local authority officer. The employee will be made aware of

the outcome and of any action points agreed as a result of the investigation. The local authority officer will discuss with the coordinator whether a referral should be made to the DfE for consideration of 'barred list' action, or to any other pertinent agencies.

Where, on conclusion of an investigation, it is decided, that a person who has been suspended can return to work, the coordinator will consider how best to facilitate that.

Following any disciplinary action, a comprehensive summary of any allegations made, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, will be kept on the employee's file, and a copy provided to the employee concerned. The purpose of the record is to enable accurate information to be given in response to any future request for a reference if the person has moved on.

Information will also be held on a database that can only be accessed by LA designated officers. The database will provide clarification in cases where a future DBS disclosure reveals information from the police about an allegation that did not result in a criminal conviction. This course of action will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record will show what action was taken, and, if appropriate, that the allegation was unfounded. The record should be retained at least until the person has reached normal retirement age, or for a period of 10 years from the date of the allegation whichever is longer.

### **Reporting outcomes to external agencies**

Red Balloon (either a centre coordinator or member of Group) will report promptly to the DBS any person (whether employed, contracted, a volunteer or student) whose services are no longer used for regulated activity and the DBS referral criteria are met, that is, they have caused harm or posed a risk of harm to a child. Red Balloon may have ceased to use a person's services through:

- dismissal;
- non-renewal of a fixed-term contract;
- no longer engaging/refusing to engage a supply teacher provided by an employment agency;
- terminating the placement of a student teacher or other trainee;
- no longer using staff employed by contractors;
- no longer using volunteers;
- resignation;
- voluntary withdrawal from supply teaching, contract working, a course of initial teacher training, or volunteering.

Any report made will include as much evidence about the circumstances of the case as possible. Failure to make a report when required constitutes an offence. 'Compromise agreements' cannot be used to prevent a referral being made to the DBS when it is legally required, nor can an individual's refusal to cooperate with an investigation.

The proprietors of Red Balloon Centres hold a legal duty to respond to requests from the DBS for information they hold already, but they do not have to find it from other sources.

Red Balloon managers (coordinators and Group) are also under a duty to consider making a referral to the TRA (Teaching Regulation Agency) where a teacher has been dismissed (or would have been dismissed had s/he not resigned) and a prohibition order may be appropriate. The reasons such an order would be considered are: 'unacceptable professional conduct', 'conduct that may bring the profession into disrepute' or a 'conviction, at any time, for a relevant offence'. Managers should refer to 'Teacher misconduct: the prohibition of teachers' (October 2015) or the TRA website for guidance as to when such referral is necessary.

### **Confidentiality:**

All allegations will be treated seriously and with discretion. Proceedings and records in connection with the allegation will be kept as confidential as possible, but employees must appreciate that formal investigations cannot always be kept on an entirely confidential basis.

Policy updated Sept 2018 by Bob Sproson, Director of Education - for annual review.