

## **COMPLAINTS PROCEDURE**

**Approved by Full Governors: 11<sup>th</sup> July 2014**

**(Updated Summer 2016)**

**Next Review: Summer 2017**

## COMPLAINTS PROCEDURE

The school's nominated Complaints Co-ordinators are:

Mr. F. Rex – Principal for staff issues.

Mrs. K Wright – Vice Principal for Key Stage 4, Post 16 issues

Mr. S Steinhaus – Vice Principal for Key Stage 3 issues.

Mrs P. Harrison – School Business Manager – for Premises, Finance and Catering issues.

### **STAGE 1: The first contact : Guidelines for dealing with concerns and complaints informally.**

Complainants may register their concerns either verbally or in writing by letter or by use of a complaint form, see Annex B. If the member of staff first contacted cannot immediately deal with the matter, he or she must make a clear note of the date, name, contact address and phone number and brief details of the concern. This information must be relayed to the Complaints Co-ordinator at the earliest opportunity, and a check made later to make sure action is being taken and that the complaint has been recorded in the school's complaints log, which is held by the School Business Manager.

The complainant will be provided with an opportunity to discuss their concern with an appropriate member of staff, who clarifies the nature of the concern, the outcome the complainant is seeking, and gives reassurance that the school will treat it seriously.

If there are specific allegations against staff then please see Annex C.

The Complaints Co-ordinator will identify the appropriate complaint procedure and either investigate himself, or nominate an appropriate colleague to do so. The Co-ordinator will make sure the complainant is clear what action (if any) or monitoring of the situation has been decided on, only putting this in writing if this seems the best way to make things clear.

Where no satisfactory solution has been found within **10 working days** at the latest, the Complaint Co-ordinator will ask the complainant if they wish their concern to be registered formally.

### **STAGE 2: Formal referral to the Principal**

If the concerns relate to the Principal, or the Principal has been so involved as not to be impartial, the complainant must be advised to contact the Chair of the Governing Body.

The Chair will decide if they wish to have support. Where the Principal has acted as Complaint Co-ordinator at Stage One, another senior member of staff may be

designated to collect some of the information from the parties involved, or another senior member of staff may be nominated to be the Investigator.

The complaint should be submitted in writing, either by letter or by completion of the school's complaint form, Annex B. The complainant will be made aware of the assistance available.

The investigator will acknowledge the complaint in writing within **three working days**, providing a brief explanation of the school's complaint procedure, their own name and telephone number, and a target date for providing a response – this should normally be within **10 working days**. If there is any delay, a written explanation and revised target date will be sent.

The investigator will provide an opportunity for the complainant to meet him or her, to supplement or explain any information provided previously. Every effort will be made to arrange a time and date convenient to the complainant, with a minimum 3 days notice. The invitation will make it clear that they are welcome to be accompanied by a friend, relative, representative or advocate, to speak on their behalf and that interpreting facilities are available if needed. The venue will be suitable to those with special needs i.e. wheelchair access, hearing loop.

The investigator will interview witnesses and take statements from those involved. If the complaint centres around a pupil, the pupil should also be interviewed. Pupils will normally be interviewed with parents/guardians present. In some situations, circumstances may prevent this, i.e. where this would seriously delay the investigation of a serious/urgent complaint, or where particular circumstances mean that a pupil has specifically said he or she would prefer that they are not present. In such circumstances another member of staff with whom the pupil feels comfortable must be asked to attend.

Written records of the complaint, the process of investigation, meetings, telephone conversations and other documents will be kept for two years. These are confidential to the school, but will be the basis of a report of the investigation if the complainant requests one.

Once all the relevant facts have been established, the Principal or designate will produce a report and a written response to the complainant. It may be best to meet the complainant to discuss the outcome and resolve any outstanding concerns. In any event, the complainant should be offered the opportunity to meet with the investigator to discuss the outcome.

The written response will include:

- A full explanation of the decision reached and the reasons for it, including clarification of any misunderstandings by any of the parties involved.

- Where applicable, what action the school will take to address the complaint and prevent recurrence, which might include an undertaking to review school policies.
- An apology if appropriate (an admission that the situation could have been handled differently or better is not the same as an admission of any negligence). If there is a possibility of a claim for compensation or of legal action being brought, advice will be sought on the wording of the letter.
- Information on how and the timescale for requesting a review by the governing body if they are not satisfied with the outcome.

### **STAGE 3: Governing Body review of the Principal's or Chair's investigation**

A request to review a complaint investigation should be made in writing to the Chair of the Governing Body, within **28 days** of receipt of the outcome letter.

The Clerk to the Governing Body will write to the complainant within **3 working days**, to acknowledge receipt of the review request, to confirm the grounds on which a review will be considered and request that written details of the grounds for the review be received within 28 days of the outcome letter. These grounds are limited to:

- A claim that material information was not taken into account in investigating the complaint.
- A claim that procedures have not been properly applied in handling the complaint.
- A claim that there has been an incorrect interpretation of school policy.

The Governing Body will then nominate three members to form a Complaint Panel to review the complaint and any further documents submitted by the complainant. These must be governors who have had no prior involvement with the complaint.

If s/he has not previously been involved, the Chair of the Governing Body should chair the panel otherwise the Vice-Chair should do it. The Principal, or others involved in the original investigation should not have a place on the panel. If the complaint is from a parent, Governors will bear in mind the advantage of having a parent governor on the Panel and will also be sensitive to uses of race, gender and religious affiliation, to ensure a fair and balanced hearing of the case.

The clerk convenes the Complaints Panel within 28 days of receipt of the appeal and at the same time provides panel members with copies of all relevant correspondence and documentation. If this is extensive, the Chair of the Panel should prepare a thorough summary of the other members.

The complainant, Principal and other witnesses are given a minimum of **5 working days** notice of the appeals hearing. The complainant is advised of their right to bring a friend or representative, or to be represented by someone of their choice.

The Panel meeting will be kept as informal as possible, particularly when the complainant attends in person. A round table type of meeting will be adopted where possible.

#### **THE OUTCOME OF APPEALS MAY BE TO:**

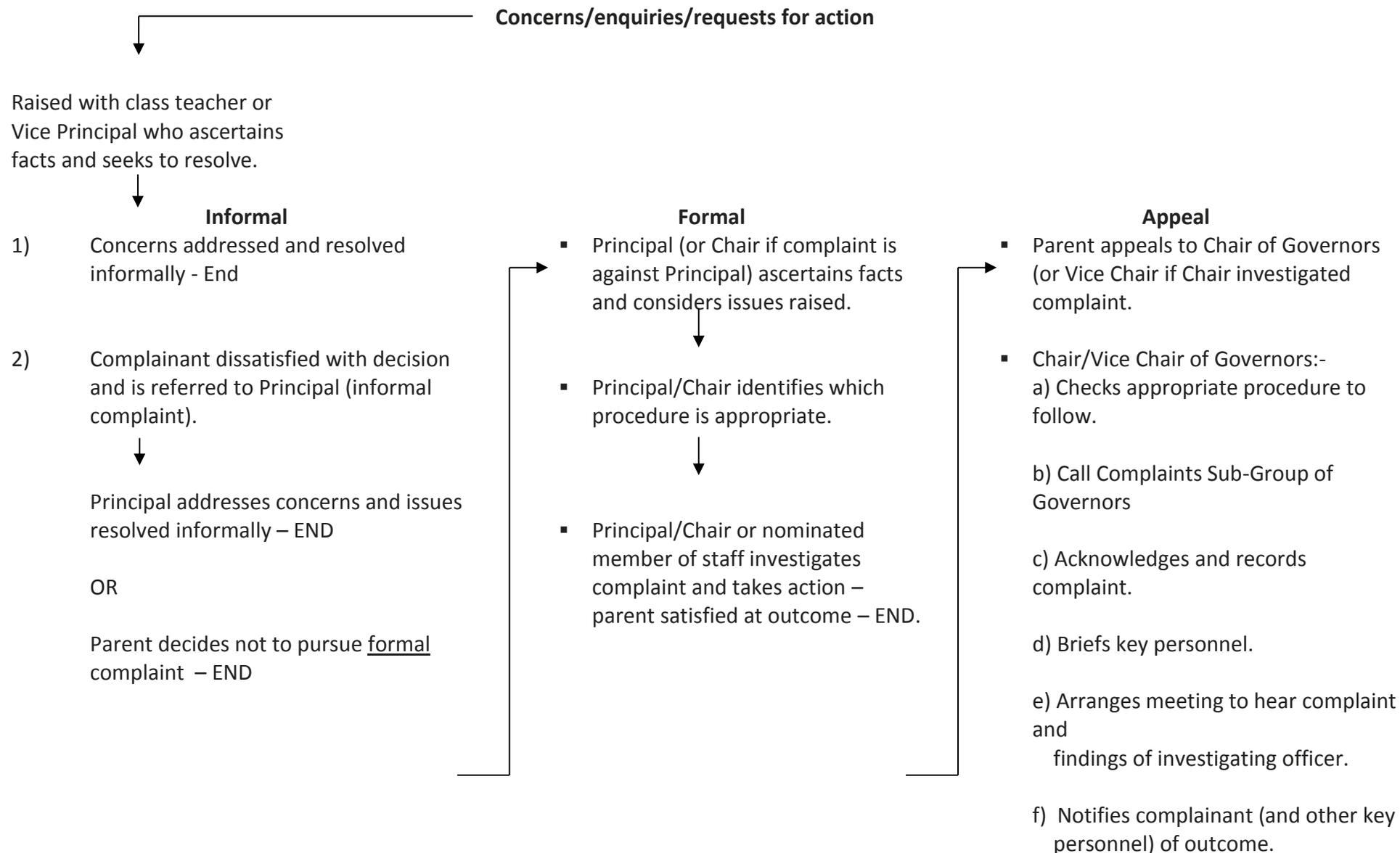
- Uphold the result of the original investigation, in which case a full explanation will be given.
- Find the complaint was justified and overturn the original decision. In this case the Review Panel will issue an apology and if the provision of a service or other remedial action is required, will ensure this is put in hand quickly and consider implications for procedures, staff training etc. If there is a possibility of a claim for compensation, or of legal action being brought, the Review Panel will seek legal advice on the on the wording of the letter.
- Find there has been no malpractice or failure of service, but that policies or resources did not permit what the complainant wanted. In this case, the Review Panel will consider whether or not it is appropriate for the policy or allocation of resources to be reviewed and give a full explanation of what action will be taken.
- The Chair of the Panel will notify the complainant in writing of the outcome and advise them of any right of further appeal, i.e. to the Secretary of State.

#### **MONITORING AND REPORTING**

The Investigator will record the outcome and identify who is responsible for carrying out and monitoring any recommended action in the school's complaints log.

The Principal will produce a regular analysis of complaints received for the Governing Body.

**FLOW CHART FOR COMPLAINTS RAISED AT WHITLEY ACADEMY**



3) Principal does not uphold complaint, but parent dissatisfied and pursues formal complaint.

OR

Principal considers there is need for issue to be considered through formal complaint procedure.

- Principal/Chair or nominated member of staff investigates complaint and takes action – parent satisfied at outcome – END

- Principal/Chair does not uphold complaint – parent dissatisfied and appeals.

- Governors uphold complaint and take action, complainant satisfied at outcome – END.

- Governors do not uphold complaint – complainant dissatisfied. Chair of Governors advises complainant of any right of appeal to external body e.g. Secretary of State.

WHITLEY ACADEMY

SCHOOL COMPLAINTS PROCEDURE  
COMPLAINT FORM

*If there is anything which makes it difficult for you to tell us about your complaint, for example if English is not your first language, please tell us so that we can help you.*

Data Protection Act 1998

The personal data that you provide will be used for the purposes of investigating your complaint and for producing statistical data, to enable the school's management to monitor access to and the effectiveness of the school's complaint procedure. The information you give will be held securely and in confidence.

**Please complete and return to Mrs Allen, Principal who will acknowledge receipt and explain what action will be taken.**

**First name** ..... **Surname** .....  
(Mr/Mrs/Miss/Ms/Other)

**Your address** .....

.....

**Post code** .....

**Day time telephone number** .....

**Evening telephone number** .....

If you complaint relates to a pupil, please give:

**Pupil's name** .....

**Your relationship to the pupil** .....

**Please give details of your complaint** .....

**What action, if any, have you already taken to try to resolve your complaint?  
(who did you speak to and what was the response?)**

**School Complaints Procedure**

**What would you like us to do to make improvements or put things right?**

**Are you attaching any paperwork? If so, please give details:**

**Signature:**

**Date**

Please also complete and return the attached Equal Opportunities monitoring form.

**For office use only**

**Date received** .....

**Date acknowledgement sent** .....

**By who:** .....

**Date complaint logged:** .....

**By who:** .....

**Complaint referred to** .....

**Date** .....

## WHITLEY ACADEMY

## COMPLAINT FORM

## Equal opportunities monitoring

## Data Protection Act 1998

The Personal Data that you provide will be used for the purpose of monitoring that all groups of people are able to access and use the complaints procedure and that we treat people fairly. The information that you give will be held securely and in confidence.

**This information will not affect the way in which your complaint is handled. When you have filled in this form, please return it either with your complaint form, or if you prefer, after your complaint has been dealt with.**

- **Gender:** Are you Female  Male
- **What age group do you fit into?** (please tick one box only)
 

Under 16  16 – 24  25 – 34  35 – 49  50 – 64  65 – 79  80+
- **What is your ethnic group?**  
Choose one section from 1) – e) and then tick the one box you think best describes your cultural or ethnic background.
 

<p>a) <b>White</b></p> <p><input type="checkbox"/> British</p> <p><input type="checkbox"/> Irish</p> <p><input type="checkbox"/> Any other white background <i>(please write in below)</i></p>	<p>b) <b>Mixed</b></p> <p><input type="checkbox"/> White &amp; Black Caribbean</p> <p><input type="checkbox"/> White &amp; Black African</p> <p><input type="checkbox"/> White &amp; Asian</p> <p><input type="checkbox"/> Any other mixed background <i>(please write below)</i></p>
<p>c) <b>Asian or Asian British</b></p> <p><input type="checkbox"/> Indian</p> <p><input type="checkbox"/> Pakistani</p> <p><input type="checkbox"/> Bangladeshi</p> <p><input type="checkbox"/> Any other Asian background <i>(please write below)</i></p>	<p>d) <b>Black or Black British</b></p> <p><input type="checkbox"/> Caribbean</p> <p><input type="checkbox"/> African</p> <p><input type="checkbox"/> Any other Black background <i>(please write below)</i></p>
- e) **Chinese or other ethnic group**

Chinese

Any other  
*(please write below)*
- **Do you consider yourself to be disabled or to have a long term health condition?**

Yes  No

## **Whitley Academy**

### **Specific Allegations**

#### **Dealing with Allegations of Abuse against Teachers and Other Staff**

It is essential that any allegation of abuse made against a teacher or other member of staff or volunteer in an educational environment is dealt with fairly, quickly, and consistently, in a way that provides effective protection for the child and at the same time supports the person who is subject to the allegation. It is important that staff, students and parents/carers are able to raise concerns and are listened to and taken seriously.

#### **Allegations made to the Academy**

Where an allegation is made to, or by, a member of staff it should be reported immediately to the Principal. If the allegation involves the Principal it should be reported directly to the Chair of Governors. In the absence of the Principal, the allegation should be reported to the Vice Principal, unless the allegation is about the Vice Principal, in which case it should be reported directly to the Chair of Governors. The person responsible for the investigation will be known as the 'case manager'. If the allegation meets any of the following criteria, the case manager should report it to the Local Authority designated officer (LADO) on the same day:

- A member of staff has behaved in a way that has harmed a child, or may have harmed a child
- A member of staff has possibly committed a criminal offence against or related to a child
- A member of staff has behaved towards a child or children in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children.

#### **Record Keeping**

It is important that a clear and comprehensive summary of any allegations made be retained in the member of staff's confidential personnel file. This summary should include:

- details of how the allegations were followed up and resolved
- a note of any action taken
- decisions reached
- details of allegations that are found to have been malicious should be removed from the personnel records

A copy should be provided to the member of staff concerned. The summary should be retained at least until the member of staff has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

## **Allegations made to the Police or Children’s Social Care**

Some allegations will be so serious they require immediate intervention by children’s social care services and/or the police. The LADO should be informed of all allegations made to the academy and appear to meet the criteria so they can consult police and children’s social care services as appropriate.

### **Initial Consideration**

In the first instance the LADO will discuss the matter with the case manager and obtain further details of the allegation and the circumstances in which it was made. The purpose of this initial discussion is for the LADO and case manager to consider the nature, content and context of the allegation and agree a course of action. The LADO and case manager will discuss whether police involvement is necessary.

The initial sharing of information may lead to the decision that no further action is to be taken in regard to the individual facing the allegation or concern. This decision and reasons for it should be recorded by the case manager and the LADO and agreement reached on what information should be put in writing to the individual concerned and by whom.

The case manager should inform the accused person about the allegation as soon as possible after discussions with the LADO. It is extremely important that they are given as much information as possible at the time. However, where there needs to be a meeting with the police and or children’s social care services this should not happen until those discussions have taken place and it has been agreed what information can be disclosed to the accused.

If there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion should be convened in accordance with ‘Working Together to Safeguard Children’

Where it is clear that an investigation by the police or children’s social care services is unnecessary, or initial discussions decide that this is the case the case manager and LADO should discuss the next steps. The options open to the Academy depend on the nature and circumstances of the allegation and the evidence and information available. This will range from no further action to dismissal or a decision not to use the person’s services in the future. Suspension should not be a default position: an individual should only be suspended if there is no reasonable alternative.

### **Suspension**

Suspension will only be considered in any case where:

- there is cause to suspect a child is at risk of ‘significant harm’
- the allegation warrants investigation by the Police, or is so serious that grounds for dismissal are being considered. Suspension will not be automatic; the Academy will consider whether the result that would be achieved by suspension could be obtained by alternative arrangements. In many cases an investigation can be resolved quickly without the need for suspension. If the LADO, police and children’s social services have no objections to the member of staff continuing to work during the investigation, the academy will be as inventive as possible to avoid suspension.

## **Action following Initial Consideration**

### **Timescales**

Where the initial consideration decides that the allegation does not involve a possible criminal offence, the employer must deal with the matter. If the nature of the allegation does not require formal disciplinary action, the Principal will institute appropriate action within 3 working days.

If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days.

Where further investigation is required to inform consideration of disciplinary action, the Principal and the Vice Principal will discuss with the LADO who will undertake the necessary action. In some circumstances it may be appropriate for the disciplinary investigation to be conducted by a person who is independent of the Academy.

The investigating officer should aim to provide a report to the employer within 10 working days. On receipt of the report of the disciplinary investigation, the case manager should consult the LADO within 2 working days to decide whether a disciplinary hearing is needed. If such a hearing is required, it should be held within 15 working days.

### **Oversight and monitoring**

The LADO has overall responsibility for oversight of the procedures for dealing with allegations; for resolving any inter-agency issues; and for liaison with the Local Safeguarding Children Board (LSCB) on the subject. The LADO will provide advice and guidance to the case manager, in addition to liaising with the police and other agencies, and monitoring the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process. Reviews should be carried out at fortnightly or monthly intervals, depending on the complexity of the case.

### **Supporting those involved**

Parents or carers of a child or children involved should be advised of any allegation/s as soon as possible. However where a strategy discussion is required or police or children's social care services need to be involved the case manager should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers. Parents/carers should also be kept informed regarding progress on the case and should be informed of the outcome where there is not a criminal prosecution or a disciplinary hearing. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but parents or carers of the child should be told the outcome in confidence

Parents and carers should be made aware of the prohibition on reporting or publishing allegations about teachers in Section 141F of the Education Act 2002. If parents or carers wish to apply to the court to have the reporting restrictions removed, they should be told to seek legal advice.

The Academy has a duty of care to its employees. They should act to manage and minimise the stress inherent in the allegations process. Support of the individual is vital to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by children's social care services or the police. The individual should be advised to contact their trade union representative, if they have one, or a colleague for support. They should also have access to welfare counselling or medical advice.

The case manager should appoint a named representative to keep the person informed of the progress of the case and consider what other support is appropriate for the individual. Particular care should be taken where employees are suspended to ensure that they are kept informed of both the progress of their case and current work-related issues. Social contact with colleagues and friends should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

### **Confidentiality**

It is extremely important when an allegation is made that the Academy makes every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2011 introduced reporting restrictions preventing 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 the same school or college. The reporting restrictions apply until the point that the accused person is charged with an offence, or the Secretary of State publishes information about an investigation or decision in a disciplinary case arising from the allegation. The reporting 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 on their behalf or a judge lifts the restrictions in response to a request to do so.

The Academy should take advice from the LADO, police and children's social care services to agree the following:

- Who needs to know and 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.

### **Resignations and 'Compromise Agreements'**

Allegations must be investigated even in situations where a member of staff tenders their resignation. If a person resigns or their services ceased to be used and the criteria are met it will not be appropriate to reach a settlement/ compromise agreement.

So-called 'settlement/compromise agreements' by which a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, should not be used in cases of refusal to cooperate or resignation before the person's notice period expires. Such agreement will not prevent a thorough police investigation where that is appropriate.

### **Case subject to Police Investigation**

If a criminal investigation is required, the police will aim to complete their enquiries as quickly as possible consistent with a fair and thorough investigation and will keep the progress of the case under review. A target date for the case review will be set. The review will include the progress of the investigation and consultation with the Crown Prosecution Service (CPS). If the Police and/or CPS decide not to charge the individual with an offence, decide to administer a caution, or the person is acquitted by a court, the Police should wherever possible, aim to pass all information they have, which may be relevant to a disciplinary case, to the employer within 3 working days of the decision. In those cases, the employer and the LADO should decide how to proceed.

### **Information sharing**

In the strategy discussions or the initial evaluation of the case, the agencies involved should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim

Where the police are involved, wherever possible the employer should ask the police to obtain consent from the individuals involved to share their statements and evidence for use in the employer disciplinary process. This should be done as their investigation proceeds and will enable the police to share relevant information without delay at the conclusion of their investigation or any court case

### **On conclusion of a case**

If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the LADO should discuss with the case manager and their personnel adviser whether the academy should make a referral to the Disclosure Barring Service (DBS) for consideration of whether inclusion on the barred lists is required and in the case of a member of teaching staff whether to refer the matter to the National College for Teaching and Leadership (NCTL) to consider prohibiting the individual from teaching. There is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child

Where it is decided that the person who has been suspended can return to work the case manager should consider how best to facilitate that. Most people will benefit from some help and support to return to work after a stressful experience. Depending on the individuals circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The case manager should also consider how the person's contact with the child or children who made the allegation can best be managed if they are still a pupil at the academy.

### **In respect of malicious or unsubstantiated allegations**

If an allegation is determined to be unsubstantiated or malicious, the LADO should refer the matter to the children's social care services to determine whether the child concerned is in need of services, or may have been abused by someone else. Where there is clear evidence that an allegation was deliberately invented or malicious, the case manager will consider whether any disciplinary action is appropriate against the pupil who made it.

Advice should be sought from the Police regarding whether any action might be appropriate against the person responsible if he/she was not a pupil.

### **Learning lessons**

At the conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the case manager to determine whether there are any improvements to be made to the Academy's procedures or practice to help prevent similar events in the future. This should include issues arising from the decision to suspend the member of staff, the duration of the suspension and whether or not suspension was justified. Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated. The LADO and case manager should consider how future investigations of a similar nature could be carried out without suspending the individual