

# **Safeguarding**

## **Procedures for dealing with Allegations of Abuse against Teachers & Other Staff**

**Raphael Independent School  
September 2018/19**



## **Introduction**

This policy complies with:

- 'The Education (Independent School Standards) Regulations' (ISSR) – 2014
- 'Keeping Children Safe in Education' (KCSIE) - Sep 2018
- 'Working Together to Safeguarding Children' (WTSC) – July 2018
- 'Prevent Duty Guidance for England and Wales' – March 2016
- 'Statutory Framework for the Early Years Foundation Stage' - 2017

It is also informed by DfE advice, 'What to do if you are worried a child is being abused – advice for practitioners' 2015

In child protection matters the school will follow the inter-agency and child protection procedures laid down by the Havering Safeguarding Children Board.

## **Publication**

This Policy is updated annually and is published to all staff and volunteers and placed on the school website.

Rather than duplicating content from Keeping Children Safe in Education (September 2018) in this policy, it should be understood that the School will always refer to this document as the benchmark for all safeguarding practice and decision making.

## KEY FACTS:

This policy is about managing concerns or allegations which might indicate a person has harmed a child, or may have harmed a child, possibly committed a criminal offence against or related to a child or behaved towards a child or children in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children.

Raphael Independent School takes all concerns and allegations seriously and will always act in the best interests of children and young people; whilst also exercising a duty of care for employees.

Concerns or allegations **about staff** in schools will be raised immediately with the Head.

Concerns or allegations **about the Head** in a school will be raised immediately with the Director with responsibility for safeguarding or any other Director if he is unavailable without informing the Head. The LADO will decide when the Head is to be informed.

Concerns or allegations about anyone governance responsibility will be raised directly with the designated officers of the local authority (the "Designated Officer(s)").

The Head will refer all allegations to the Designated Officer(s). If the Head is unsure about whether or not to make a referral they will discuss this with the Designated Officer(s).

Raphael Independent School will comply with statutory requirements and guidance.

Raphael Independent School will always work in partnership and share information with external agencies.

Raphael Independent School will make every effort to maintain confidentiality of each case. Staff will never promise confidentiality to a pupil.

## 1 **Policy Statement**

- 1.1. This policy is published on the school website.
- 1.2. Raphael Independent School takes all concerns and allegations seriously and will always act in the best interests of children and young people; whilst also exercising a duty of care for employees.
- 1.3. Raphael Independent School will always work in partnership and share information with local authority children's care services, the Designated Officer(s) and law enforcement agencies where relevant. In any case in which a child may have suffered significant harm or where there may be a criminal prosecution, Raphael Independent School will liaise with these agencies to ensure that appropriate steps are taken to support the child or children involved.
- 1.4. Raphael Independent School will work to comply with the current DfE statutory regulations; Working Together to Safeguard Children (July 2018) and Keeping Children Safe in Education (September 2018) (KCSIE). This includes contributing to inter-agency working, providing early help when additional needs of children are identified and contributing to inter-agency plans to provide additional support to children subject to child protection plans.

- 1.5. The vast majority of adults who work with children act professionally and aim to provide a safe and supportive environment which secures the well-being and very best outcomes for children and young people in their care. There are however some adults who will deliberately seek out, create or exploit opportunities to abuse children. It is therefore essential that all possible steps are taken to safeguard children and young people and ensure that the adults working with them have been appropriately vetted and are safe to do so. Our duty to promote and safeguard the wellbeing of children is in part achieved by raising awareness of illegal, unsafe and inappropriate behaviour. All members of staff are required to read our Code of Conduct, including neutral notification, and sign to accept that they understand the implications for safer work with our children and young people.
- 1.6. All staff, including volunteers, are encouraged to report any concerns about poor or unsafe practice and potential failures in our arrangements to safeguard children. We have separate whistleblowing procedures which are outlined in our school's separate policy. Our approach to whistleblowing is contained also within our Code of Conduct for staff. Furthermore, we actively promote any notification of concerns through our neutral notification form within the Code of Conduct so that individuals can share information about their concerns as early as possible. This helps us to keep an open culture in our school.
- 1.7. All staff must bare in mind the offences under sections 16 to 18 of The Sexual Offences Act 2003, which provide that it is an offence for a person aged 18 or over (e.g. teacher) to (a) have a sexual relationship (even if the relationship is consensual); (b) caused or incited a child to engage in sexual activity; and/or (c) intentionally engaged in sexual activity in the presence of a child under 18, where that person is in a position of trust in respect of that child. A situation where a person is in a position of trust could arise where the child is in full-time education and the person looks after children under 18 in the same establishment as the child, even if s/he does not teach the child.
- 1.8. Raphael Independent School will make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2002 (section 141F) outlines 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 the school (where that identification would identify the teacher as the subject of the allegation). These reporting restrictions apply until the point that the accused person is charged with an offence or until the Secretary of State (Teaching Regulation Agency) 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 written consent for another to do so or if a judge lifts restrictions in a response to do so.

- 1.9. Publication' of material 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. This means that a parent or a pupil who, for example, publishes details of the allegation which could lead to the teacher's identification on a social networking site would be in breach of the reporting restrictions.
- 1.10. We will make parent/carer(s) aware of the requirement to maintain confidentiality about any allegations made against adults in school while investigations are ongoing.

## **2 Application**

- 2.1. This document relates to staff (teaching or non-teaching) or volunteers and Directors who are currently working in Raphael Independent school, regardless of whether the current school is where the alleged abuse took place and the expression 'member of staff' in this policy shall be taken to apply to all of the above. Allegations against a member of staff who is no longer working in this school, including historical allegations should be referred to the police. Where it is deemed appropriate (for example, where the individual is still working with children), the Designated Officer(s) will also be informed.
- 2.2. We aim to deal with any allegation quickly, fairly and in a consistent way – providing effective protection for the child at the same time as supporting the person who is subject to the allegation.
- 2.3. We understand that concerns or allegations may arise in relation to individuals who are not members of staff, as defined above (e.g. in relation to parents, other children, visitors to the school or third parties unconnected with the school). In such cases the school will follow its Safeguarding: Child Protection Policy as its primary policy.
- 2.4. Throughout the document, the term DSL is used. For staff in the early years, they should report directly to the Early Years DSL.

## **3 Procedure**

- 3.1. This procedure must be used in respect of all cases in which it is alleged or there are concerns that a member of staff has:
  - 3.1.1. behaved in a way that has harmed a child, or may have harmed a child;
  - 3.1.2. possibly committed a criminal offence against or related to a child; or
  - 3.1.3. behaved towards a child or children in a way that indicates he or she would pose a risk of harm if they worked regularly or closely with children.
- 3.2. These behaviours include allegations or concerns relating to inappropriate relationships between members of staff or students, for example:

- 3.2.1. Having a sexual relationship with a child if in a position of trust in respect of that child, even if consensual (see s16-19 Sexual Offences Act 2003);
- 3.2.2. 'Grooming', i.e. meeting a child under 16 with intent to commit a relevant offence (see s15 Sexual Offences Act 2003);
- 3.2.3. Other 'grooming' behaviour rising to concerns of a broader child protection nature (e.g. inappropriate text/email messages or images, gifts, socialising etc);
- 3.2.4. Possession of indecent photography/pseudo-photography/moving pictures of children.

#### 4 **Procedure if an allegation is made or concern is raised**

- 4.1. If a member of staff receives an allegation against any adult, staff or volunteer, who works with children they must report it immediately to the Head. The latter acts as the **case manager**, who will immediately discuss the allegation with the Designated Officer. If the Head is unavailable or if the allegation of abuse is made against the Head, the staff member will report directly to the Director with safeguarding responsibility (Chet Ahmet) who will in turn act as the case manager and will liaise directly and immediately with the Designated Officer. Any allegation made against anyone acting in a governance capacity of the school will be referred directly to the Designated Officer(s) and the Head informed. It is important to emphasise that any member of staff, parent or student, can refer their concerns to the Designated Officer(s) directly.
- 4.2. Staff members are reminded not to:
  - 4.2.1. investigate or ask leading questions;
  - 4.2.2. make assumptions or offer alternative explanations for action;
  - 4.2.3. promise confidentiality to the victim – but do offer assurance that information will only be shared on a need to know basis.
- 4.3. On receipt of any allegation or concern which appears to meet the criteria at 3.1 above the **case manager** shall:-
  - 4.3.1. Immediately discuss with the Designated Officer the nature, content of the allegation and context, and agree a course of action.
  - 4.3.2. Inform the Designated Officer of any relevant additional information which is already known such as previous history, whether the child or family have made similar allegations previously, and the individual's current contact with children.
  - 4.3.3. Complete and return any referral form as required by the Designated Officer ;
  - 4.3.4. Agree with the Designated Officer whether a possible criminal offence may have been committed such that police should be involved immediately;

- 4.3.5. Always inform the DSL of the fact of, and outcome from, any notification to the Designated Officer of any concern or allegation.
- 4.3.6. With the agreement of the Designated Officer(s), inform the staff member who made the initial report that the matter has been notified to the Designated Officer(s) and is in hand.
- 4.4. Throughout the process of managing an investigation, the **case manager** will take advice from the Designated Officer(s) , police and Children's Social Care to agree the following:
  - 4.4.1. who needs to know and, importantly, exactly what information can be shared for example, with parents and children;
  - 4.4.2. how to manage speculation, leaks and gossip;
  - 4.4.3. what, if any information can reasonably be given to the wider community to reduce speculation; and
  - 4.4.4. how to manage press interest if and when it should arise.
- 4.5. Some incidents may appear not to meet the criteria in 4.1 above and on the face of it will not warrant consideration of a police investigation, or enquiries by children's social care. However, for the avoidance of any doubt the case manager will refer **all** allegations or concerns or suspicions of abuse to the Designated Officer.
- 4.6. Staff must not undertake their own investigations of allegations without prior consultation with the Designated Officer, or in the most serious cases, the police, so as not to jeopardise statutory investigations. Borderline cases will also be discussed with the Designated Officer in the first instance without identifying individuals and, following discussion, the Designated Officer will determine whether the allegation or concern should be formally referred. It is also important to ensure that even expressions of concern that do not necessarily amount to allegations are reported to the Designated Officer and addressed, particularly if there are repeated reports of such concerns and/or questionable conduct. It may be that the concern raised has been raised previously. If there are repeated reports of such concerns and/or questionable conduct, a pattern of unacceptable behaviour may be identified.
- 4.7. If a staff member feels that a reported allegation or concern is not being dealt with appropriately, they should report the matter to the Designated Officer directly.
- 4.8. All allegations or concerns are reported to the Designated Officer. We work with the Designated Officer and keep them informed of allegations or concerns so that they can effectively monitor all cases. They maintain an oversight of the procedures for dealing with such allegations or concerns, for resolving inter-agency issues and for liaison with Local Children Safeguarding Board on such matters. We follow their guidance at all times with regards to managing the case.



- 4.9. In the rare case that immediate intervention is required from the police and/or Children's Social Care (for example, if the accused member of staff is deemed to be an immediate risk to children or where there is evidence that a criminal offence may have been committed), the Designated Officer will be informed immediately where practicable, or as soon as possible following referral to the police or other agency where it is not. Under normal circumstances, the Designated Officer would advise which other services or agencies to contact.
- 4.10. By sharing information the decision may be taken that no further action is required. In this case, this decision and justification should be recorded in writing by both the case manager and Designated Officer, and an agreement reached on what information should be put in writing to the individual concerned and by whom. The case manager should share any written information with the Directors. Following this type of outcome, the case manager should consider with the Designated Officer what action should follow both in respect of the individual and those who made the initial allegation.
- 4.11. If there is cause to suspect that a child is suffering or is likely to suffer significant harm, a strategy meeting should be convened in accordance with *Working Together to Safeguard Children (September 2018)*. If the allegation is about physical contact, the strategy meeting 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.
- 4.12. Where it is clear that an investigation by the police or Children's Social Care is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the Designated Officer will discuss the next steps with the case manager. The options open will depend on the nature 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 a person's services in the future.
- 4.13. We will ensure as far as possible that all allegations are dealt with very quickly in a fair and consistent way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation.

## **5 Informing the staff member**

- 5.1. The case manager will inform the accused person of the concerns or allegations as soon as possible and given an explanation of the likely course of action but always after taking advice from the Designated Officer who will liaise with the police as necessary. The case manager will provide the accused person with as much information as possible at that time. The exception to this is where the Designated Officer advises that this should not happen or where a strategy discussion is needed, or police or children's social care need to be involved. In these circumstances the case manager should not inform the accused person until those agencies have been consulted, and have agreed what information can be disclosed to the accused.

## **6 Suspension**

- 6.1. The case manager should consult with the Designated Officer and the Raphael Independents Schools board of directors in order to consider whether suspension is required. When making a decision about suspension the Head will give due weight to the views of the Designated Officer and to this policy. If the Designated Officer, police and/or children's social care services have no objections to the member of staff continuing work during the investigation then the case manager will try wherever possible to avoid suspension. However, Raphael Independent School acknowledges that the power to suspend is vested in it as proprietor and ultimately the case manager will take the decision on a case by case basis having undertaken a risk assessment.
- 6.2. Suspension will be considered only where there is cause to suspect that the accused person poses a risk of harm to a child or other children or the case is so serious that it might be grounds for dismissal.
- 6.3. When considering the decision to suspend, Raphael Independent School will always evaluate and manage the possible risk of harm to children posed by the person accused. Suspension will not be an automatic or default response and Raphael Independent School will consider 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.
- 6.4. All options to avoid suspension including those recommended in section 4 KCSIE (September 2018) will be considered in consultation with the Designated Officer(s) before a decision is made. For school based staff, the Head has the authority to suspend an employee. For Heads of school the decision to suspend will be taken by the Board of Directors.
- 6.5. In cases where the school is made aware that the Secretary of State has made an interim prohibition order in respect of an individual at the school it will be necessary immediately to suspend that person from teaching pending the findings of the Teaching Regulation Agency's investigation.
- 6.6. When the decision is taken to suspend, the rationale and justification for suspension should be agreed and recorded by both the case manager and Designated Officer(s). This should also include what alternates to and why they were rejected.
- 6.7. Where suspension is used, written confirmation will be dispatched to the suspended person within one working day, giving as much detail as appropriate for the reasons for suspension. The written notification will include the contact details of a named contact within the organisation.

## **7 Investigation**

- 7.1. In some cases, further enquiries will be needed following the initial discussion with the Designated Officer(s) to enable a decision about how to proceed. The Designated Officer and case manager will discuss how and by whom the investigation will be undertaken. Investigations can often be undertaken by a senior member of staff.

- 7.2. In some circumstances, either because of lack of resource or because of complexity, an independent investigator will be appointed.

## **8 Duty of care for employees**

- 8.1. As an employer, Raphael Independent School has a duty of care to all employees. Raphael Independent School provides counselling support to any staff member facing an allegation. Individuals subject to an allegation will always be advised to contact their trade union representative, if they have one, or a colleague for support.
- 8.2. The case manager will appoint a named representative to keep the staff member informed of (a) progress of their case, (b) what other support is appropriate for the individual and (c) (for suspended individuals) current work-related issues.
- 8.3. If suspended, 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.

## **9 Communication with parent/carer**

- 9.1. Parent/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.
- 9.2. The case manager will not communicate with the parent/carer until advised to do so if a strategy meeting is required. In this case, the case manager will only communicate with the parent/carer following authorisation from the Designated Officer and agreement as to what information can be disclosed.
- 9.3. Parents and carers should be made aware of the prohibition on reporting or publishing allegations (including via social media) about teachers in section 141F of the Education Act 2002. Parents and carers who wish to apply to the court to have reporting restrictions removed should be told to seek legal advice.
- 9.4. The parent/carer will 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, cannot normally be disclosed, but the parents or carers of the child should be told the outcome in confidence. In deciding what information to disclose, Raphael Independent School will give careful consideration to the provision of the Data Protection Act 1998 and, where relevant, the Human Rights Act 1998.

## **10 Outcome of an investigation**

- 10.1. When determining the outcomes of allegation investigations, the following definitions will be applied:
- 10.1.1. Substantiated: there is sufficient evidence to prove the allegation;
- 10.1.2. Malicious: there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
- 10.1.3. False: there is sufficient evidence to disprove the allegation;
- 10.1.4. Unsubstantiated: there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

## 11 Resignations & Referrals

- 11.1. If the accused person resigns, or ceases to provide their services, this will not prevent an investigation being followed up as outlined above and a conclusion drawn regarding whether the person would or might have been removed or dismissed had they not resigned or left of their own accord.
- 11.2. A referral to the DBS will still be made in these circumstances (in consultation with the Designated Officer/LADO regarding any person who has been removed from working (paid or unpaid) in regulated activity, or would or might have been so removed had they not resigned or left of their own accord and we believe the person may have:
  - 11.2.1. harmed a child or poses a risk of harm;
  - 11.2.2. caused a child to be harmed;
  - 11.2.3. put a child at risk of harm;
  - 11.2.4. attempted to harm a child;
  - 11.2.5. incited another to harm a child (physical, emotional, sexual or neglect); or
  - 11.2.6. if there is reason to believe the member of staff has committed one of a number of listed offences under the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009 (SI 2009 No. 37) (amended) (See KCSIE September 2018 for link to list of offences).
- 11.3. Separate consideration must be given to a Teaching Regulation Agency referral. A TRA referral must be considered where a teacher has been dismissed (or would have been dismissed had he/she 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". Advice about whether an allegation against a teacher is sufficiently serious to refer to the TRA can be found in DfE guidance Teacher misconduct: the prohibition of teachers (April 2018).
- 11.4. As much information about the circumstances of the case as possible will be included in any report made to DBS and/or TRA.
- 11.5. If the above criteria are met, in no circumstances will Raphael Independent School enter into a settlement agreement.
- 11.6. Raphael Independent School will make every endeavour to complete the investigation and due process; even where the person concerned refuses to cooperate or resigns before that person's notice period expires. Settlement agreements will not be used in these cases. Similarly, where an employee's notice of employment expires, Raphael Independent School will always endeavour to complete the investigation and reach a conclusion.

## **12 Record keeping**

- 12.1. The case manager is responsible for compiling a clear and comprehensive account of an allegation or concern, including details about the discussions with the child; discussions with the parent; discussions with other members of staff, the DSL, the Head and the Designated Officer; how it was followed up and resolved, the decisions reached and the action taken. A copy of the written referral to the Designated Officer, confirming the verbal and telephone referral shall also be kept.
- 12.2. Details of an allegation relating to any child will be recorded in that individual's child protection file, held securely by the DSL. He or she, in liaison with the Head, must also pass allegations or concerns about an individual pupil onto their next school, if appropriate.
- 12.3. Details of allegations that are found to be malicious will be removed from all personnel records. For all other allegations a record of the allegation, follow up and resolution will be kept on the individual's confidential personnel record and a copy of the document provided to the employee.
- 12.4. The written record is kept to enable accurate information to be given in response to any future request for a reference. It will provide clarification in cases where future DBS checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.
- 12.5. The written record will be retained at least until the employee has reached normal pension age or for a period of 10 years from the date of the allegation if that is longer. The Information Commissioner's guidance contained in its Employment Practices Code will be followed in respect of employee records.

## **13 References**

- 13.1. Cases in which an allegation was proven to be false, unsubstantiated or malicious will not be included in employer references. A history of repeated concerns or allegations which have all been found to be false, unsubstantiated or malicious will not be included in any reference.

## **14 Timescales**

- 14.1. Raphael Independent School will always work to conclude investigations as quickly as possible whilst ensuring a thorough, rigorous and fair process. It is acknowledged that when dealing with allegations or concerns, the process can be halted or slowed by the need to work with a range of external agencies...

We recognise the target timescales (below) outlined in KCSIE (September 2018):

14.1.1. 80% of cases should be resolved within 1 month;

14.1.2. 90% of cases should be resolved within 3 months;

14.1.3. All but the most exceptional cases should be completed within 12 months.

- 14.2. Where it is clear immediately that the allegation is unsubstantiated, false or malicious, we aim to resolve the case within 5 working (school) days of the strategy discussion with the Designated Officer.
- 14.3. Where the initial consideration decides that the allegation or concern does not involve a possible criminal offence or meet the other criteria in 3.1 above it will be dealt with as an internal, Raphael Independent School, issue. Where however there are any doubts or concerns regarding child protection, advice will always be taken from the Designated Officer.
- 14.4. If the nature of the allegation does not require formal disciplinary action, Raphael Independent School will aim to instigate appropriate action within 3 working (school) days, such as a discussion or the identification of lessons learned.
- 14.5. If a disciplinary hearing is required and can be held without further investigation, the hearing will normally be held within 15 working (school) days.

## **15 Conclusion of a case**

- 15.1. In the case of an allegation being substantiated and the person is (i) dismissed, or (ii) it is decided to discontinue their services, or (iii) the person resigns or ceases to provide services, Raphael Independent School will, following liaison between the Designated Officer, case manager make a referral to the DBS for consideration of inclusion on the barred list in accordance with paragraph 11.2 above.
- 15.2. A referral will be made to the TRA if the criteria set out at 11.3 above are met.
- 15.3. Where, on conclusion, it is decided the person can return to work, the case manager will consider how best to facilitate this. This will be dealt with on a case by case basis but may include a phased return, mentoring or counselling. The case manager will 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/pupils at the school.
- 15.4. Where a criminal investigation has taken place and either (i) a trial has resulted (ii) the investigation has been closed without charge or (iii) a decision has been taken not to prosecute a case after charge, the case manager will discuss with the Designated Officer what, if any, further action is required as regards the member of staff concerned and the sharing of information obtained by the agencies involved in assisting any further action to be taken by the school.

## **16 Malicious or unsubstantiated allegations**

- 16.1. If an allegation is determined to be unsubstantiated, false or malicious, the Designated Officer may recommend that the school refers 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.
- 16.2. If an allegation is shown to be deliberately invented or malicious, the Head (or Board of Directors.) In the case of an allegation against the Head) should consider whether any disciplinary action is appropriate against the pupil or staff member 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 (a parent or colleague, for example).

## **17 Lessons learnt**

- 17.1. At the conclusion of each case, the case manager will consider with the Designated Officer whether there are any lessons to be learnt for the future by Raphael Independent School and share this in appropriate ways in order to ensure that the best practice is shared and lessons for the future are taken on board.

## **18 Monitoring & Evaluation**

- 18.1. This policy will be reviewed annually by the Head (and SMT) and revised in accordance with changing local and national requirements for independent schools. It shall be shared with all staff and made available on the school website.

Date of Policy: September 2018

Review Date: September 2019

To be reviewed by:

SMT/Directors