



### **St. Martin's School**

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"At St Martin's School we are a fellowship of scholars who achieve excellence. We seek a rich, broad and challenging Curriculum. This culture puts us in control of our journey. Our children not only excel academically but are given the tools to enable them to pass their exams and converse at interview with confidence. This learning nurtures and stimulates us whilst emphasising the importance of individuality, intellectual wonder and self-actualisation. We obtain mastery in all aspects of the Curriculum. The heart of our journey is Literacy which we recognise as the fundamental tool of human communication. We explore the human condition through Music, Media and Drama. We value the planet, nature and fellow human beings in all their expressions."

We believe that this policy ensures that the students have confident and nurturing environment from which to excel academically.

We have written this policy as it particularly fits the ethos of our school. We are aware that children who attend St Martin's School live in different boroughs. However, for clarity we focus on the London Borough of Barnet.

This Policy will be disseminated to all staff for their contribution, understanding and agreement to adhere to it. It is on our website, in every classroom and a copy is in our main office for anyone to read and discuss.

## **ALLEGATIONS OF ABUSE AGAINST TEACHERS & OTHER STAFF**

### **Introduction**

- 1.1 It is essential that any allegation of abuse made against a teacher, other member of staff, proprietor or volunteer at St Martin's School is 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.
- 1.2 The procedures outlined in this Policy will be followed alongside the Complaints Procedure, Child Protection Policy, Safeguarding Policy, Whistle-Blowing Policy and the Staff Disciplinary Procedure and any other relevant School policy or procedure.
- 1.3 All staff and volunteers should understand 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. It is our policy that all allegations will be reported straight away, to the Head Teacher, or to a Director of Harwil Education Ltd in cases where the Head is the subject of the allegation or concern.

- 1.4 Our Local Authority Designated Officer (LADO), Multi Agency Safeguarding Hub (MASH), can be contacted on Tel: 020 8359 4066 or if out of hours then 020 8359 2000, email [mash@barnet.gov.uk](mailto:mash@barnet.gov.uk). We contact them for advice and keep them informed of allegations so that they can effectively monitor all cases. They maintain oversight of the procedures for dealing with such allegations, for resolving inter-agency issues and for liaison with our local (Barnet Safeguarding Children Board) Safeguarding Children's Board on such matters. Contact details: Safeguarding Division, Building 4, North London Business Park, Oakleigh Road South, London, N11 1NP; web: [www.barnetscb.org](http://www.barnetscb.org), LCSB Chair: Chris Miller, [barnetscb@barnet.gov.uk](mailto:barnetscb@barnet.gov.uk); LCSB Interim Business Manager: Simon Corkill, [simon.corkill@barnet.gov.uk](mailto:simon.corkill@barnet.gov.uk); LCSB Head of Safeguarding and Quality Assurance: Elaine Atkinson, [elaine.atkinson@barnet.gov.uk](mailto:elaine.atkinson@barnet.gov.uk); LCSB Administrator: Shandan Stuart-Best, [Shandon.stuart-best@barnet.gov.uk](mailto:Shandon.stuart-best@barnet.gov.uk).
- 1.5 We adopt the Government guidance, Safeguarding Children and Safer Recruitment 2007 and the current consultation document Keeping Children Safe in Education July 2015 (DfE, BIS). Our practice is in keeping with Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children 2013. Both documents together set out the framework for managing cases of allegations of abuse against people who work with children; including the duty to co-operate.
- 1.6 We follow the statutory guidance Dealing with Allegations of Abuse Against Teachers and Other Staff, Guidance for Local Authorities, Head Teachers, school staff, Governing Bodies and Proprietors of Independent Schools (DfE 2012) and have regard to it when carrying out duties relating to handling allegations against teachers and other staff.
- 1.7 This policy reflects the Children Act 1989/2004 and is compliant with Section 157 of the Education Act 2002 and the accompanying Education (Independent School Standards) (England) Regulations 2010, including as amended in 2013.
- 1.8 Pupils that have been found to have made malicious allegations may be likely to have breached our school behaviour policy. In such circumstances we will consider the individual circumstances carefully and then consider whether to apply an appropriate sanction. The latter could include exclusion from school, as well as referral to the police if there are grounds for believing a criminal offence may have been committed in so doing.

## **2.0 Purpose**

- 2.1 This Policy will be adopted in respect of allegations that might indicate that a person is unsuitable to continue to work with children in their present position, or in any capacity.
- 2.2 This Policy is used in respect of all cases in which it is alleged that a teacher or member of staff (including a volunteer) has:-
- behaved in a way that has harmed a child, or may have harmed a child (see Child Protection Policy for definition of harm);
  - 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.
- 2.3 There may be up to three strands within the consideration of any allegation:

- a police investigation of a possible criminal offence;
- enquiries and assessment by children's social care about whether a child is in need of protection or in need of services;
- consideration by the School of disciplinary action in respect of the individual.

### **3.0 Supporting those involved**

- 3.1 Our procedures will always be managed with common sense and sound judgement. Many cases may not meet the above criteria, and indeed may not require either a police investigation or further enquiries by the local authority children's services. In such situations, we will resolve the matter as quickly as possible. Where more appropriate we may seek to use our school's complaints procedure instead.
- 3.2 As employers, we have a duty of care to our employees. We provide effective support for anyone facing an allegation and provide our staff member with a named contact if they are suspended. Social contact with colleagues and friends will not be prevented unless there is evident to suggest that it is likely to be prejudicial to the gathering and presentation of evidence.
- 3.3 Rarely, some allegations may be so serious that we may need to ask for immediate intervention by children's social care and/police. If this is the case, and we believe the above criteria are likely to be met, the Head Teacher (Director of Harwil Education Ltd if the allegation is about the Head Teacher) will inform the LADO of such allegations immediately and keep the Education Officer, Compliance fully informed.
- 3.4 Suspension is never a default option and we will consider all other options before suspending a member of staff. We would only suspend someone if there was no reasonable alternative. In such cases, reasons and justification would be recorded and the suspended person notified of the reasons.
- 3.5 Parent/carer(s) of a child or children involved will be told about the allegation if appropriate as soon as possible, if they do not already know of it. They will also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution. However, where a strategy discussion is required, or police or children's social care services need to be involved, this should not take place unless or until those agencies have been consulted and have agreed what information can be disclosed to the parent/carer(s). That includes 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 parent/carer(s) of the child will be told the outcome.
- 3.6 In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's social care, or the police as appropriate, will be consulted by the Head Teacher or the Education Executive (as appropriate) to consider what support the child or children involved may need. The Head Teacher or the Education Executive (as appropriate) will also keep the person who is the subject of the allegations informed of the progress of the case and consider what other support is appropriate for them.
- 3.7 If the person is a member of a union or professional association s/he will be advised to contact that body for support at the outset.
- 3.8 Every effort will be made to maintain confidentiality and guard against publicity while an allegation is being investigated or considered in accordance with the School's practice in maintaining confidentiality and our obligations under the Data Protection Act 1998.

- 3.9 Where a member of staff tenders his or her resignation, or ceases to provide their services, this action will not prevent an allegation being followed up in accordance with these procedures.
- 3.10 Every effort will be made to reach a conclusion in all cases of allegations bearing in mind the safety or welfare of children including where the person concerned refuses to cooperate with the process.
- 3.11 Wherever possible the person will be given a full opportunity to answer the allegation and make representations about it. The process of investigating the allegation and reaching a judgment about whether it can be regarded as substantiated will continue, even if the person does not cooperate
- 3.12 Similarly, so called "compromise agreements" by which a person agrees to resign, the school agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, will not be used in these cases. In any event, such an agreement will not prevent a thorough police investigation where that is appropriate. Furthermore, it will not override the statutory duty to make a referral to the Disclosure and Barring Service (DBS), where circumstances require.

#### **4.0 Record Keeping**

- 4.1 A clear and comprehensive summary of an allegation, details of how it was followed up and resolved, and a note of any action taken and decisions reached, will be kept on a person's confidential personnel file, and a copy provided to the person 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.
- 4.2 The only exception to this is allegations which are found to have been malicious, which will be removed from personnel records.
- 4.3 The record may 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. Also, it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record will be retained at least until the member of staff involved has reached normal retirement age or for a period of 10 years from the date of the allegation, if that is longer.
- 4.4 An allegation which was proven to be false, unsubstantiated, unfounded or malicious will not be included in employer references.
- 4.5 Our practice on the retention of employment records is in accordance with guidance from the Information Commissioner (see Data Protection Policy).

#### **5.0 Timescales**

- 5.1 It is in everyone's interest to resolve cases as quickly as possible, consistent with a fair and thorough investigation. We are aware that all allegations must be investigated as a priority to avoid delay.
- 5.2 We aim to complete the majority of our investigations and resolve any cases where an allegation has been made within three weeks.

- 5.3 Where formal disciplinary action is not required, as the employer, St Martin's will institute appropriate action within three working days. Where it is proving difficult to do so in exceptional circumstances, for extraneous reasons such as the nature, seriousness and complexity of the allegation, we aim to keep everyone informed of our expected timeframe.
- 5.4 If a disciplinary hearing is required, and can be held without investigation, the hearing will be held within 15 working days.
- 5.5 However, where it is clear immediately that the allegation is unfounded or malicious, the investigation will be resolved within one week.

## **6.0 Initial Considerations**

- 6.1 The Head Teacher (or a Director of Harwil Education Ltd where the allegation is made about the Head Teacher) will inform the staff member about the allegation as soon as possible after consulting the School's Local Authority Designated Officer (LADO). The LADO shall be informed of all allegations that come to the school's attention and fall within the criteria listed under the heading Section 2.0 above.
- 6.2 The LADO will discuss and consider the nature, content, and context of the allegation. Any initial consideration where information is shared may result in no further action being taken. However, this decision and the reason for it will always be recorded by the Head Teacher and LADO, and agreement reached on what information must be put in writing to the individual concerned and by whom. They will also consider together what action should follow for the individual and for those who made the allegation.
- 6.3 For legal reasons, the school cannot rule out the need to make third parties aware of certain issues and possibly also the identity of those involved. This would only be likely to happen where, for example, a pupil's safety was at risk or it became necessary to refer matters to the police.
- 6.4 If the allegation is not demonstrably false or unfounded, and there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion will be convened by the Head Teacher with appropriate agencies, such as the police and children's social care, in accordance with Working Together To Safeguard Children 2013.
- 6.5 Where a strategy discussion is needed, or police or children's social care may need to be involved, the Head Teacher will not provide full information until those agencies have been consulted, and have agreed what information can be disclosed to the person. However, if the person is a member of a union or professional association they will be advised to contact that organisation at the outset.
- 6.6 In cases where a formal strategy discussion is not considered appropriate because the threshold of "significant harm" is not reached, but a police investigation might be needed, the Head Teacher will consult with the police and any other agencies involved with the child to evaluate the allegation and decide how it should be dealt with, under the advisement of the LADO.
- 6.7 If the allegation is about physical contact, the strategy discussion or initial evaluation with the police will take account of the fact that teachers and other school staff are entitled to use reasonable force to control or restrain pupils in certain circumstances, including dealing with disruptive behaviour.

- 6.8 If the complaint or allegation is such that it is clear that an investigation by police and/or enquiries by children's social care are not necessary, or the strategy discussion or initial evaluation decides that is the case, the Head Teacher and the LADO shall decide as to the appropriate next steps to take.
- 6.9 In these circumstances the options open to the School depend on the nature and circumstances of the allegation and the evidence and information available, and will range from taking no further action to summary dismissal or a decision not to use the person's services in future.
- 6.10 In some cases, further enquiries will be needed to enable a decision about how to proceed; determined by the Head Teacher and LADO.
- 6.11 The following definitions should be used in determining any outcome of an investigation:
- substantiated, ie there is evidence to prove the allegation;
  - false; ie there is sufficient evidence to disprove the allegation;
  - malicious, ie there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false;
  - unfounded, ie no evidence or proper basis to support the allegation. Typically the person who made the allegation may not have been in full knowledge of the facts or circumstances, misinterpreted the incident or have been mistaken about what they saw;
  - unsubstantiated; ie, there is insufficient evidence to prove or disprove the allegation and thereby the term does not imply guilt or innocence;

## **7.0 Suspension**

- 7.1 Suspension will be considered in any case where there is cause to suspect a child is at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal. However, a person will not be suspended automatically, or without careful consideration of the circumstances. Advice will always be sought first from the LADO and the Education Executive.
- 7.2 The power to suspend is vested in the Head Teacher and the Directors of Harwil Education Ltd. However, they will canvass police/social care views about whether the member of staff, about whom the allegation has been made, needs to be suspended from contact with children, to inform the School's consideration of suspension.
- 7.3 Consideration will always be given as to whether the same result can be considered by alternative arrangements, based on assessment of risk, for example redeployment, supervision, removing access to children. Use of these management actions can allow time for a more informed decision to be made.
- 7.4 The potential for permanent professional reputational damage which can result from suspension will always be considered.
- 7.5 Where suspension is used, a clear record of the decision and justification or rationale is always taken.

## **8.0 Action on Conclusion of a Case**

- 8.1 If the allegation is substantiated and the person is dismissed or the School ceases to use the person's services, or the person resigns or otherwise ceases to provide his/her

services, the Head Teacher will determine the next steps. In conjunction with the Directors of Harwil Education Ltd, the Head Teacher will determine whether a referral should be made to the Independent Safeguarding Authority for consideration of including the person on the DBS barred from working with children list.

- 8.2 There will always be a discussion with the LADO by the Head Teacher to consider this matter fully.
- 8.3 In cases where it is decided on the conclusion of the case that a person who has been suspended can return to work the school will consider how best to facilitate that. We appreciate that most people will benefit from some help and support to return to work after a very stressful experience. Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The school 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 attending.
- 8.4 Reporting restrictions introduced under Education Act 2011 (effective 1 October 2012) prevent the publication of any material that may lead to the identification of a teacher who has been falsely accused by, or on behalf of, a pupil from the same school. These restrictions cease to apply where the individual themselves waive their rights to anonymity by going public or giving written consent for another person to do so, or if a judge lifts the restriction.
- 8.5 There is a legal requirement for St Martin's School to make a referral, within one month of ceasing to employ, to the Disclosure and Barring Service where we think a person has engaged in conduct, including inappropriate sexual conduct, that harmed or is likely to harm, a child; or if a person otherwise poses a risk of harm to a child. This duty applies where we have removed a person from relevant work with children or the person has chosen to cease relevant work in circumstances where they would have been removed, had they not done so. This step would lead to consideration of whether to bar the person from working in regulated activity.

## **9.0 Action in Respect of False Allegations**

- 9.1 If an allegation is determined to be false, the Head Teacher may refer the matter to children's social care to determine whether the child concerned is in need of services, or may have been abused by someone else.
- 9.2 In the rare event that an allegation is shown to have been deliberately invented or malicious, the Head Teacher will consider whether any disciplinary action is appropriate against the pupil who made it, or the police should be asked to consider whether any action might be appropriate against the person responsible if s/he was not a pupil.

## **10. Further Details**

- 10.1 Staff wishing to read further information should consult the Local Safeguarding Board (Barnet Safeguarding Children Board) or LADO.
- 10.2 This document has been prepared in full consideration and compliance with Dealing with Allegations of Abuse Against Teachers and Other Staff Guidance for Proprietors, Head Teachers, School staff and Governing Bodies and Proprietors of Independent Schools (Statutory guidance, DfE).

## **11.0 Monitoring & Evaluation**

11.1 This policy will be reviewed annually by our senior leadership team and revised in accordance with changing national requirements for independent schools.

## **12.0 Other Associated Policies & Procedures**

- Safeguarding Children including Child Protection Procedures;
- Health & Safety;
- Safer Recruitment;
- Staff Handbook;
- Central Record of Recruitment & Vetting Checks;
- Compliments & Complaints Procedure;
- Data Protection;
- Anti-bullying;
- Staff discipline, conduct and grievance, procedures for addressing; and
- Whistle-blowing.

Signed: Dr Jason Walak – Head Teacher

12<sup>th</sup> January, 2017

Review Date: 12<sup>th</sup> January, 2019