

Allegation Against Adults Policy



1. INTRODUCTION

Experience shows that vulnerable persons can become victims of abuse and exploitation by those adults who work with them in any context. Eat That Frog C.I.C takes its safeguarding responsibilities very seriously and recognises that any instances where a member of staff may have 'harmed' a student, must be investigated thoroughly, professionally and objectively to ensure both the student and member of staff are not prejudiced in any way.

1.1 Arrangements for managing concerns or allegations of this nature will be robust and effective in keeping the vulnerable person safe. All allegations will be taken seriously, approached with an open mind, and not driven by preconceived opinions about either the student or the member of staff.

1.2 Measures and procedures for dealing with allegations against staff will be appropriate to the statutory guidance detailed in:

- ✔ Working Together (July 2018)
- ✔ Keeping Children Safe in Education (September 2020)

1.3 These procedures will be applied consistently where there is a concern or an allegation that a member of staff has:

- ✔ Behaved in a way that has harmed a vulnerable person, or may have harmed a vulnerable person;
- ✔ Possibly committed a criminal offence against or related to a vulnerable person; or
- ✔ Behaved towards a vulnerable person in a way that indicates s/he is unsuitable to work with children.

1.4 Any allegation of abuse (linked to the criteria above) made by a student against any member of staff or volunteer at Eat That Frog, will follow the procedures specified in this Policy.

2. REPORTING AN ALLEGATION

2.1 The person who receives an allegation or report of abuse by a member of staff or a student must report this. A referral will be made to the Designated Safeguarding Lead (DSL) / Deputy Designated Safeguarding Leads (DDSL) who will pass the details of the allegation to a Director of Eat That Frog immediately. Should the allegation be made against a Director of Eat That Frog, this will be reported to the Local Authority Designated Officer (LADO) immediately (please see DSL for contact details).

2.2 If a student makes an allegation, the member of staff should listen carefully and make notes about the incident reported. The member of staff will record the information in keeping with Eat That Frog's procedures and processes for safeguarding disclosures (please see the Keeping People Safe Policy for further details). It is important that the member of staff listens carefully and records the information as reported by the vulnerable person.

2.3 All allegations will be taken seriously, approached with an open mind, and not be driven by preconceived opinions about the learner or member of staff.

2.4 Should any of the allegations meet any of the criteria set out in paragraph 1.4, then a Director of Eat That Frog must report the allegation to the Local Authority Designated Officer (LADO).

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2.5 Eat That Frog recognises that there are occasions when a person who works with vulnerable people behaves in a way that is concerning. This might raise the question about their ability to recognise and take steps to safeguard vulnerable persons in their care. As an employer, we have a duty to consider whether the issue indicates that they are unsuitable to continue in their role for the immediate future or indefinitely.

These are known as issues of suitability and will be dealt with by Eat That Frog's disciplinary procedures. Issues of suitability can include:

- ✔ Where an employee is being investigated for an offence against an adult;
- ✔ Their behaviour in their personal lives brings into question their suitability to work with children/ vulnerable adults.

2.6 If an adult who works with a vulnerable person has involvement from Children's Social Care in respect of their own child, or a child that they live with or have contact with, it is the responsibility of Children's Social Care to assess the immediate concern and inform the LADO of whether the adult poses a risk to children. Staff in the company should ensure that they disclose information about themselves relating to the above to a Director of Eat That Frog as soon as possible. Eat That Frog will create an environment and culture where staff are able to do this.

3 INITIAL CONSIDERATIONS

3.1 The Director of Eat That Frog will keep the allegation as confidential as possible but may consult with the DSL to ensure that all of the relevant information about the student and the member of staff can be carefully considered. It will also be necessary for the Director to refer to previous staff conduct records to establish any potential patterns of behaviour.

3.2 The Director of Eat That Frog will discuss the matter with the LADO and record the details of the allegation via a concern form. This should be sent via secure e-mail. The referral must be made within 24 hours of receiving the allegation. A consultation form must always be completed, even when there is uncertainty on whether the threshold has been met. This is an important process especially in situations where the case does not meet the threshold for the LADO as this could indicate that further training is required for the company on what does and does not constitute further action from the LADO.

3.3 Following the referral, the LADO may offer guidance to Eat That Frog to ensure that appropriate actions are taken. It is not the role of the LADO to determine whether the suspension of the member of staff is required nor will they undertake investigations.

3.4 The procedures for dealing with allegations need to be applied with common sense and judgement. Once a consultation form has been completed, the Director of Eat That Frog will discuss the matter with the LADO and provide any further details about the allegation and the circumstances in which it was made. The LADO and the Director of Eat That Frog will discuss the nature, content and context of the allegation and agree a course of action. The LADO may also ask for additional information such as previous history, whether the vulnerable person or family have made similar allegations previously and about the member of staff's contact with children.

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3.5 Where an allegation has been made, the Director of Eat That Frog should inform the accused person as soon as possible after consulting with the LADO. It is important that the member of staff is provided with as much information as possible at this time as long as this does not impact or affect the allegation/investigation procedures.

3.6 Many cases will not meet the criteria (set out in Paragraph 1.4) or may do so without warranting consideration of either a police investigation or enquiries by local authority children's social care services. In these cases, action should remain within normal line management arrangements/disciplinary procedures.

3.7 Where no further action is to be taken regarding the allegation, the decision and justification for it should be recorded by both the Director of Eat That Frog and the LADO. Both parties should specify how the agreement has been reached and how this will be communicated to all parties involved.

4 THE LADO PROCESS

4.1 Allegations that are serious will require immediate intervention by social care services and/or police if the person is deemed to be an immediate risk to a vulnerable person or there is evidence of a possible criminal offence. Where allegations appear to meet the criteria, the LADO should consult with the police and social care services as appropriate.

4.2 Employers must consider carefully whether the evidence of a case warrants a person being suspended from contact with vulnerable people at Eat That Frog or whether alternative arrangements can be put in place until the allegation is resolved. All options to avoid suspension should be considered prior to taking this step.

4.3 Eat That Frog will decide whether to suspend taking into account advice from LADO and HR.

4.4 If it is suspected a vulnerable person is suffering or is likely to suffer significant harm, a strategy meeting will be arranged in accordance with the statutory guidance in Working Together to Safeguard Children. This will take place within five days of receiving the initial referral.

4.5 Further enquiries may be needed to enable a decision about how to proceed. If so, the LADO will discuss with the Director how the investigation should be undertaken. In many cases, the investigation should be undertaken by a senior member of staff.

4.6 In all instances it will be necessary for Eat That Frog to consider the suitability of the professional to continue in their post during the course of an investigation. Eat That Frog will consider all options available and suspension will only be used if the information suggests that the professional presents an immediate risk to the vulnerable person in question or other vulnerable people within their role in the organisation. Decisions made by Eat That Frog will be reported to the LADO.

4.7 The LADO and the strategy group bear no responsibility if Eat That Frog chooses to dismiss the professional involved prior to the strategy meeting or prior to the conclusion of the investigation. In such cases, Eat That Frog will refer the matter to the Disclosure and Barring Service (DBS).

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5 SUPPORTING EMPLOYEES

5.1 Eat That Frog have a duty of care to employees to manage and minimise the stress inherent in the allegations process. Employees will be informed of concerns or allegations as soon as possible and told what will happen unless there is an objection by social care services or the police. The employee will be advised to contact their trade union representative or a colleague for support. Other support agencies will be sought (counselling or Occupational Health) if appropriate. The Director of Eat That Frog will appoint a named representative to keep the person informed of progress.

6 SUPPORTING PARENTS

6.1 Parents and carers of the vulnerable person/people involved will be told about the allegation as soon as possible if they do not already know. If the allegation leads to a strategy meeting or the police or social care services are involved, information will not be shared with parents or carers until those agencies have been consulted. Parents or carers will also be kept informed about the progress of the case as well as the outcomes.

6.2 Parents and carers will also be made aware of the requirement to maintain confidentiality about any allegations made against members of staff whilst investigations are ongoing.

6.3 In cases where a vulnerable person may have suffered significant harm, or where there may be a criminal prosecution, social care services or the police should consider what support the vulnerable person or vulnerable people involved may need.

7 SUSPENSION

7.1 Eat That Frog may decide to suspend the employee until the case is resolved based upon careful evaluation of the allegation and the possible risk of harm to vulnerable people. Suspension is not an automatic response and all options to avoid suspension will be considered prior to taking that step. If Eat that Frog is concerned about the safety and welfare of other vulnerable people or the member of staff's own family, these concerns will be reported to the LADO or police.

7.2 Suspension will only be considered in cases where there is cause to suspect a vulnerable person/people at the organisation is/are at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal. Eat That Frog will carefully consider whether the circumstances warrant suspension.

7.3 Alternatives to suspension could be:

- ✔ Redeployment so that the member of staff does not have direct contact with the vulnerable person or vulnerable people concerned;
- ✔ Providing an assistant to be present when the individual has contact with vulnerable people;
- ✔ Redeployment to alternative work so that the member of staff does not have unsupervised access to vulnerable people;
- ✔ Moving the vulnerable person or vulnerable people to alternative locations where they will not come into contact with the member of staff, making it clear that this is not a punishment and parents/carers have been consulted;
- ✔ Temporarily deploying the member of staff to another role in a different location, for example to an alternative area within the company.

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7.4 These alternatives allow time for Eat That Frog to make an informed decision regarding suspension and possibly reduce the initial impact of the allegation to all parties involved. The decision to suspend or not will be dependent on the nature of the allegation. Eat That Frog 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.

7.5 If immediate suspension is necessary, the reasons for this will be agreed and be recorded by Eat That Frog and the LADO. This should also include what alternatives to suspension have been considered and the reasons for their rejection.

7.6 The employee will be sent written confirmation within one working day, giving as much detail as appropriate for the reasons for the suspension. Eat That Frog will ensure support is in place for the employee, and the member of staff will be informed, when suspended, who their named contact is within Eat That Frog and be provided with their contact details.

7.7 Social care services or the police cannot require Eat That Frog to suspend a member of staff, although the organisation should give appropriate weight to their advice. The power to suspend is vested in the Directors of Eat That Frog. Where a strategy discussion or initial evaluation concludes that there should be enquiries by the social care services and/or an investigation by the police, the LADO should canvass views from these professionals about whether the accused member of staff needs to be suspended from contact with vulnerable people in order to inform Eat That Frog's consideration of suspension. Involvement by the police does not make it mandatory to suspend a member of staff.

7.8 Eat That Frog will carry out a risk assessment for each individual case, which should be carefully considered when making a decision to suspend, or not.

8 THE STRATEGY MEETING

8.1 The initial meeting will seek agreement on how best to investigate the allegations. In all instances, a criminal investigation takes precedence over employer investigations. Eat That Frog will consider the implications of commencing their own investigation prior to the conclusion of a police investigation.

8.2 If a police investigation is not progressed, Eat That Frog becomes responsible for undertaking its own internal investigation. The strategy meeting will determine the areas of investigation required from Eat That Frog.

8.3 Review strategy meetings will take place at a frequency determined by the Chair and the strategy group members. The police will also provide regular updates of any ongoing police investigations.

8.4 The LADO has overall responsibility for the oversight of the procedures for dealing with allegations.

8.5 The LADO will provide advice and guidance to the Director of Eat That Frog whilst liaising with the police and other agencies and monitoring the progress of cases to ensure that they are dealt with as quickly as possible.

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8.6 If the strategy group or initial assessment decides that a police investigation is required, the police should also set a date for reviewing the progress of the investigation and consulting the Crown Prosecution Service (CPS) about whether to charge the individual, continue to investigate or close the investigation. Wherever possible, the police review will take place no later than four weeks after the initial evaluation.

8.7 The outcome will be agreed with the outcome being one of the following:

- ✔ Substantiated: there is sufficient evidence to prove the allegation;
- ✔ Malicious: there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
- ✔ False: there is sufficient evidence to disprove the allegation;
- ✔ Unsubstantiated: there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence;
- ✔ Unfounded: to reflect cases where there is no evidence or proper basis which supports the allegation being made.

8.8 Upon conclusion of the investigation, Eat That Frog may decide to dismiss the employee. Where this is the case, it is the legal responsibility of the employer to make a referral to the DBS. Where a referral is made, strategy notes are often requested in order to support their investigations into the longer-term suitability to continue to work with vulnerable people. In these instances, Eat That Frog will contact the LADO who will provide notes to the DBS.

8.9 Where a person has been dismissed, Eat That Frog is making a decision that they are unsuitable to continue with their professional role and must refer to the DBS. Failure to do so may result in investigation by the DBS for failing to carry out a legal duty.

9 CONFIDENTIALITY

9.1 When an allegation is made, Eat That Frog will make every effort to maintain confidentiality and guard against unwanted publicity. Under the Education Act 2002, reporting restrictions apply until the point that the accused person is charged with an offence.

10 RECORD KEEPING

10.1 Details of allegations that are found to have been malicious will be removed from personnel records. For all other allegations, a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved and a note of actions and decisions reached will be kept on the confidential file of the member of staff.

10.2 Cases in which an allegation was proved 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 also not be included in any reference.

11 TIMESCALES

11.1 All investigations will be investigated and resolved as quickly as possible. The timescales will depend on the nature, seriousness and complexity of the allegation.

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11.2 Where it is immediately clear that the allegation is unsubstantiated or malicious, investigations will be resolved within one week. Where the initial consultation decides that the allegation does not involve a possible criminal offence, Eat That Frog will deal with this. If there are concerns about vulnerable person protection, Eat That Frog should discuss these with the LADO. If the investigation does not require formal disciplinary action, appropriate action will be taken within three working days. If a disciplinary hearing is required, the hearing will be held according to the timescales stipulated by Eat That Frog's disciplinary procedures.

12 ACTIONS FOLLOWING A CRIMINAL INVESTIGATION OR A PROSECUTION

12.1 The police will inform the LADO and Eat That Frog immediately when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to continue to prosecute the case after the person has been charged. The LADO will discuss with Eat That Frog whether any further action, including disciplinary action, is appropriate and, if so, how to proceed. This should be based on information provided by the police and/or social care services. The options for Eat That Frog will depend on the circumstances of the case and will need to take into account the outcome of the police investigation or trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

13 ACTIONS FOLLOWING THE CONCLUSION OF A CASE

13.1 If the allegation is substantiated and the employee is dismissed or the employee resigns or ceases to provide his or her services, the LADO will discuss with Eat That Frog whether the organisation should make a referral to the DBS to consider whether inclusion on the barred lists is required.

13.2 The LADO and Eat That Frog will also need to consider whether a referral to the Teaching Regulation Agency (TRA) is needed to consider prohibiting the individual from teaching.

13.3 There is also 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 vulnerable person or if a person otherwise poses a risk to vulnerable people.

13.4 Where a person is suspended during the investigation of the case, Eat That Frog will consider how best to facilitate their return. This may include a phased return and/or the provision of a mentor to provide assistance and support in the short term. Eat That Frog will also consider how the employee's contact with the vulnerable person/people who made the allegation can be best managed if they are still a customer.

14 ACTIONS FOLLOWING A MALICIOUS OR UNSUBSTANTIATED ALLEGATION

14.1 If an allegation is determined to be unsubstantiated or malicious, the LADO will refer the matter to the social care services to determine whether the vulnerable person concerned is in need of services or may have been abused by someone else.

14.2 If an allegation is shown to be deliberately invented or malicious, the Director of Eat That Frog will consider whether action is taken against the customer.

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14.3 If an allegation made by a member of staff is proved to be false and/or malicious, an investigation will take place. The police may also consider taking action against the individual making the allegation.

15 RESIGNATIONS AND ‘SETTLEMENT AGREEMENTS’

15.1 If an accused employee resigns, or ceases to provide their services, this will not prevent an allegation being followed up in accordance with this policy. A referral to the DBS will be made if the allegation is subsequently substantiated.

15.2 If the accused person resigns or their services cease to be used and an allegation is substantiated, Eat That Frog will not reach any settlement/compromise agreement.

15.3 Even where an employee refuses to cooperate with the process, every effort will be made to reach a conclusion in all cases that potentially impact the welfare or safety of vulnerable people. Wherever possible, the employee will be given a full opportunity to respond to the allegation and any supporting evidence. The process of recording the allegation and reaching a judgement about whether the allegation can be substantiated should continue even if that cannot be done or the member of staff does not cooperate. It may be difficult to reach a conclusion or it may not be possible to apply any disciplinary sanctions in these circumstances if a person’s period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

15.4 ‘Settlement agreements’ (sometimes referred to as 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 where the employee refuses to cooperate or refuses to resign before the employee’s notice period expires. Such an agreement will also not prevent a thorough police investigation where that is appropriate nor can it override the legal and statutory duty to make a referral to the DBS or TRA where circumstances require that.

16 PERSONNEL FILES & REFERENCES

16.1 Details of allegations that are found to be malicious should be removed from personnel files. For all other allegations it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the confidential personnel file of the accused, and a copy provided to the person concerned.

16.2 The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. 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 resurfaces after a period of time.

16.3 Organisations have an obligation to preserve records that contain information about allegations of sexual abuse for the Independent Inquiry into Sexual Abuse (IISA), for the term of the inquiry.

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17 LEARNING LESSONS

17.1 At the conclusion of a case in which an allegation is made against a member of staff, lessons can be learned even where cases are not proven. Eat That Frog will review all cases whether proven or not to inform improved practice and process.