Realise Education

ALLEGATION AND MISCONDUCT POLICY

Introduction

Realise Ed Ltd follow strict standards in order to ensure that all candidates that we supply to our clients are of the highest professional and personal calibre. As part of our standards, we follow Safer Recruitment guidance before placing candidates into any workplace but especially those where children may be present. We also take seriously any concerns raised regarding our staff and our candidates.

This policy gives details of what action we will take when such concerns are raised with us and should be raised alongside our Safeguarding Children and Young People Policy, Complaints Policy, Safer Recruitment policy and Whistleblowing policy.

Scope of the Policy

This policy applies to anyone employed by Realise Ed Ltd including our Directors, staff, and any work placement/volunteers/ or registered with us as a candidate.

The legislation and statutory guidance used to draft this policy covers England and where candidates are located elsewhere in the UK, additional guidance may need to be considered. The main statutory guidance for organisations working in the education sector is Keeping Children Safe in Education 2023. For all other sectors, it is Working Together to Safeguard Children 2023.

Any member of staff or candidate who wishes to raise a concern regarding their conditions at work (or similar) should do so through the Company Grievance procedures.

Any organisation or service wishing to complain about our services, or the suitability/capacity of any candidate placed with them should do so under the Complaints procedure.

1. Criteria for raising concerns under this Policy

A concern may be raised against an adult which suggests that they may be a risk to a child. This includes people who may:

- behaved in a way that has harmed a child, or may have harmed a child;
- possibly committed a criminal offence against or related to a child;
- behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children; or
- behaved or may have behaved in a way that indicates they may not be suitable to work with children.

Where concerns are raised about someone who works with children, it will be necessary for Realise Ed Ltd to assess any potential risk to other children who may have contact with

the person against whom the allegation has been made. This includes the person's own children and family members.

2. Who should take the lead in investigating allegations regarding a candidate on placement in an education setting?

When deciding who should take the lead when a candidate is placed in a school the Realise Ed Ltd will have regard to Section 214, 215, 216 and 217 from Keeping Children Safe in Education 2023 (KCSIE 2023):

374. In some circumstances schools and colleges will have to consider an allegation against an individual not directly employed by them, where its disciplinary procedures do not fully apply, for example, supply teachers provided by an employment agency or business (referred to in this section as 'the agency').

375. Whilst schools and colleges are not the employer of supply teachers, they should ensure allegations are dealt with properly. In no circumstances should a school or college decide to cease to use a supply teacher due to safeguarding concerns, without finding out the facts and liaising with the local authority designated officer (LADO) to determine a suitable outcome. Governing bodies and proprietors should discuss with the agency whether it is appropriate to suspend the supply teacher, or redeploy them to another part of the school, whilst they carry out their investigation.

376. Agencies should be fully involved and co-operate in any enquiries from the LADO, police and/or children's social services. The school or college will usually take the lead because agencies do not have direct access to children or other school staff, so they will not be able to collect the facts when an allegation is made, nor do they have all the relevant information required by the LADO as part of the referral process. Supply teachers, whilst not employed by the school or college, are under the supervision, direction and control of the governing body or proprietor when working in the school or college. They should be advised to contact their trade union representative if they have one, or a colleague for support. The allegations management meeting which is often arranged by the LADO should address issues such as information sharing, to ensure that any previous concerns or allegations known to the agency are taken into account by the school during the investigation.

377. When using an agency, schools and colleges should inform the agency of its process for managing allegations. This should include inviting the agency's human resource manager or equivalent to meetings and keeping them up to date with information about its policies.

If an allegation is raised and an educational establishment takes the lead in investigating the allegation, Realise Ed Ltd will use its best endeavours to assist with that investigation, including attending meetings and sharing relevant information. We do however reserve the right to conduct our own investigation where we are not satisfied with the outcome of the investigation; where we either believe that a candidate has been unfairly treated; that the guidance in KCSIE 2023 has not been followed; or where we continue to have concerns about the suitability of the candidate to work with children/adults at risk.

Regardless of who takes the lead in the investigation, Realise Ed Ltd recognises the importance of also providing the relevant support to the candidate concerned, and of reviewing any systems or processes here at Realise Ed Ltd which may require improvement.

The remainder of this policy concerns the process to be followed if Realise Ed Ltd is to take the lead in an investigation, for example if a concern is received from some place other than an educational establishment, is a historical allegation, where the candidate does not fall into the above provision in KCSIE 2023, or where the candidate is placed in a setting other than an educational one (e.g. a social work).

3. The procedure to be followed when an allegation is made

There may be up to three strands in considering a concern or an allegation:

- A Police investigation of a criminal offence;
- Enquiries and assessment by Children's Social Care to ascertain whether a child or young person is in need of protection or is in need of services;
- Consideration by an employer of disciplinary action in respect of the individual.

4. Realise Ed Ltd Responsibilities and Multi-Agency Partnerships

Realise Ed Ltd policies and processes ensure that all candidates and other staff understand that it is their responsibility to protect children and adults who are considered vulnerable because they have care or support needs from abuse or neglect. Realise Ed Ltd's code of conduct gives guidance on what behaviour is expected from candidates when on placement in order to fulfil that responsibility.

All agencies have a joint responsibility to ensure that they work together to protect children and adults from harm. If the Realise Ed Ltd gives a local authority information that suggests an adult may be a risk to children or adults, the local authority should give careful consideration as to what information should be shared with the Realise Ed Ltd to enable a comprehensive risk assessment to be conducted.

Allegations against people who work with children and adults who may be at risk must not be dealt with in isolation. Any corresponding action necessary to address the welfare of other children or adults with care and support needs should be taken without delay and in a coordinated manner, to prevent the need for further safeguarding in future.

Any allegation which arises in relation to historical abuse by a candidate or other member of staff, should be responded to in the same way as a current concern. In such cases, it is imperative to ascertain whether the person concerned is still working with adults and/or children and if so, to inform their current employer/organisation.

The standard of proof for prosecution is 'beyond reasonable doubt'. The standard of proof for internal disciplinary procedures and for discretionary barring consideration by the Disclosure and Barring Service (DBS) is usually the civil standard of 'on the balance of probabilities'. This means that when criminal procedures are concluded without action being taken this does not automatically mean that regulatory or disciplinary procedures should cease, or not be considered. In any event, there is always a legal duty to make a safeguarding referral

to DBS if a person is dismissed or removed from their role due to harm to a child or an adult with care and support needs.

If someone is removed from their role providing regulated activity following a safeguarding incident, Realise Ed Ltd has a legal duty to refer them to the DBS. This also applies where a person leaves their role to avoid a disciplinary hearing following a safeguarding incident and Realise Ed Ltd believes they would have dismissed the person based on the information they had.

The Local Safeguarding Partner arrangements/Local Safeguarding Adults Board procedures should specify the timescales, actions and procedures for responding to any allegations or concerns raised.

5. Actions required following an allegation against the candidate or other member of staff

Any allegation against people who work with children and/or adults with care and support needs should be reported immediately to the Area Manager of Realise Ed Ltd.

When an allegation has been made against a candidate or other member of staff, the Area Manager should not investigate the matter by interviewing the accused person, the child or potential witnesses, but should only gather sufficient information to establish whether there is enough credible information to proceed further (this is known as a 'fact find'). If they are unclear about this, they should consult with the LADO in the area in which the Organisation is located. They should also:

- Obtain written details of the allegation, signed and dated by the person receiving the complaint, or allegation and any other relevant person at the point the allegation has been made;
- Countersign and date the written details;
- Record discussions about the child/adult and/or candidate/member of staff, any decisions made, and the reasons for those decisions;
- Decide whether any immediate action needs to be taken to safeguard any child or whether an urgent referral needs to be made to either Children's Social Care and/or the Police;
- The accused adult must not be informed of the allegations before consideration has been given to the implications this may have on any subsequent investigation.
- Consult the local procedures in the area in which the organisation is based and seek advice from the Local Authority Designated Officer (LADO). The LADO is responsible for dealing with allegations against people who work with children. Realise Ed Ltd should make a clear distinction between an allegation, a concern about the quality of care or a complaint when speaking to the LADO. Contact with the LADO should be made within **one working day** of the allegation being brought to the attention of the Area Manager
- At an agreed appropriate time, the Area Manager should also make the person concerned aware of their rights under employment legislation and any internal processes.

Whilst any allegation is being investigated and until the outcome is decided, candidates or other staff against whom there is an allegation, should always be treated fairly and respectively, helped to understand the concerns expressed and processes involved, and supported through the process.

It is the responsibility of the local authority to ensure that there are appropriate arrangements in place to effectively liaise with the police and other agencies, to monitor the progress of

cases and ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process.

5.1 Persons to be first notified

Any concerns should be shared with the Area Manager of Realise Ed Ltd. A plan of action should be agreed including of who needs to be notified and by whom and consider whether any action needs to be taken to preserve evidence or prevent further harm.

Area Manager must inform the LADO, for the area in which Realise Ed Ltd is based, of the allegation.

Where it is suspected that a criminal offence may have been committed, the Area Manager should also inform the police.

If the person against whom the allegation has been made has contact with other children (for example, children in their own family), a referral should also be made to Children's Social Care.

5.2 Enquiries

The Area Manger should refer to the Safeguarding Children Partnership or Local Safeguarding Adult Board procedures (for the area where Realise Ed Ltd is based) which should specify:

- action to be taken pending the outcome of the police investigations;
- action to be taken following a decision to prosecute an individual;
- action to be taken following a decision not to prosecute;
- action to be taken pending a trial;
- responses to both acquittal and conviction.

Where the LADO, in conjunction with the police as appropriate, decides that the information gathered requires further discussion, the factors below should be considered. These may be considered as part of a strategy discussion/meeting, depending on the circumstances of the case and what decisions are made if any section 47 (child protection) enquiry is instigated.

The LADO Strategy Discussion should:

- Consider the three possible strands set out earlier in this policy;
- Review any previous concerns or allegations about conduct of the accused person;
- Decide whether there should be a Section 47 Enquiry and/or Police investigation and consider the implications;
- Consider whether any parallel disciplinary process should take place;
- Consider whether a complex abuse investigation is applicable;
- Scope and plan enquiries;
- Allocate tasks;
- Set timescales;
- Decide what information can be shared, with whom and when;

- Ensure that arrangements are made to protect the child/ren involved and any other child/ren affected, including taking emergency action where needed;
- Consider what support should be provided to all children who may have been affected directly and indirectly;
- Consider what support should be provided to the person against whom the complaint or allegation has been made and others who might have been affected;
- Ensure that investigations are sufficiently independent;
- Make arrangements to inform the child's parents, and consider how to provide them with support and information during enquiries;
- Identify a lead contact manager within each agency;
- Agree protocols for reviewing investigations and monitoring progress by the LADO, noting the target timescales;
- Agree dates for future LADO Strategy Meetings;
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Consider obtaining consent from the individuals concerned by the Police and the Children's Services Trust to share the statements and evidence they obtain with Realise Ed Ltd and/or regulatory body for disciplinary purposes.

5.3 Possible risk to others

The possible risk of harm to other adults or children should be assessed and managed including those adults or children who may be at risk in the accused's home, work or community life.

Where necessary, action should be taken, using the Safeguarding Children Partnership and Safeguarding Adults Board procedures as appropriate to protect children and adults from abuse or neglect.

5.4 Sharing information

Unless it puts the child in danger, risks harm to others, or raises the possibility of evidence being destroyed, the individual concerned should be informed that the information regarding the allegation against them will be shared, and with whom. Each case must be assessed individually as there may be rare cases where informing the person about details of the allegations may increase the risks to the child. Decisions on sharing information must be justifiable and proportionate, based on the potential or actual harm to children at risk and the rationale for decision making should always be recorded. This decision should always be made in consultation with the LADO.

The person with the allegation against them should be offered a right to reply, and wherever possible given the opportunity to consent to the information being shared.

The Area Manager should be advised as to what information (whether fully or partial) can be shared, and when, with the child and their parents (where applicable). The LADO and the police should discuss with the Area Manager and decide what information they can share with the candidate or member of staff to whom the allegation relates, including being kept

updated about any investigation which is undertaken, any disciplinary or related actions. Ofsted/CQC should be informed of any allegation or concern made against a person who works with children or adults with care and support needs. They may also be invited to take part in a related strategy meeting/discussion.

When an allegation is made against a candidate or member of staff, it can be a challenging and emotive situation for all those involved, but also for colleagues and family of the accused person. Every effort should be made to maintain confidentiality in relation to the child, their parents and the candidate or member of staff. All candidates and members of staff should be reminded that the allegation must not be discussed outside of formal meetings with approved personnel, and no comment regarding it should be made on social media. It should be made clear that breach of this would result in disciplinary action being taken against the person concerned.

5.5 Media strategy

Until a person is charged, the police should not normally provide the media with any identifying information, for example a public appeal to trace a suspect. In such cases, reasons for the publicity should be recorded with prior consultation of involved partner agencies.

Any media interest whilst an allegation is being investigated or considered should be handled very carefully, and a media strategy agreed by a multi-agency strategy meeting, including the Realise Ed Ltd, where appropriate.

5.6 Support for the child/adult and their family

The person who is the main point of liaison with the child and their parents should keep them up to date, as far as possible, with the progress of the investigation whilst not breaching confidentiality in relation to the accused person.

Other professionals providing care and support to the child and their parents should remain impartial throughout the process. Whilst they should provide support specific to their role, they should refrain from offering opinion on the case and in particular, not be seen to favour either side. This duty applies to all those involved, including the placement agency.

5.7 Support for the accused person

As soon as possible after an allegation has been received, the candidate or member of staff should be advised to contact their union or professional association if they have one. The Area Manager should explore how they can be supported if an investigation takes place. This may be via a named person in the organisation or via external agencies.

Following the outcome of the investigation, if the candidate or member of staff returns to work after a period of suspension, the Area Manger should consider what help and support might be appropriate. This may include a phased return to work or deciding on what information to give to other professionals.

5.8 Suspension

Suspension should not be automatic when an allegation is received. It should be considered when:

- there is concern that a child/adult is suffering or likely to suffer abuse or neglect;
- the allegation has resulted in an investigation by the police; or
- the allegation is so serious there may be grounds for dismissal.

Although those involved in the investigation can discuss views on suspension, only the Area Manager has the power to suspend an employee or candidate. The service cannot be required to suspend an employee by the local authority or the police. Suspension may be considered when there is no other way to prevent the person concerned having contact with children or adults with care and support needs while the investigation is ongoing.

5.9 Outcomes

The following definitions should be used when determining the outcome of allegation investigations:

- **Substantiated:** there is sufficient identifiable evidence to prove the allegation;
- **False:** there is sufficient evidence to disprove the allegation;
- **Malicious:** there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false;
- **Unsubstantiated:** this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term therefore does not imply guilt or innocence;
- **Unfounded:** to reflect cases where there is no evidence or proper basis to support the allegation made.

If it is established that an allegation has been deliberately invented, the police should be asked to consider if any action may be appropriate. Realise Ed Ltd should also consider whether there is any appropriate action they can take, including giving advice to other members of staff, risk assessments or changes to working practices.

5.10 Disciplinary process

Area Manager should decide, in conjunction with the LADO, whether disciplinary action is required. The disciplinary procedures of the organisation should be followed in such circumstances. In the case of candidates, they should decide whether it is appropriate to use/employ them in the future, and whether a referral to the DBS is warranted. Referrals to other regulatory bodies (such as Social Work England) may also be required.

Wherever possible and necessary during the disciplinary process, consent should be obtained from the relevant people to share information with required organisations/bodies.

Where there are prosecutions, the police should inform the Area Manager and the LADO of the outcome immediately, to enable them to act as required in relation to the person's future employment and any required DBS referral.

5.11 Terminating employment

Wherever possible a conclusion to the investigation should be achieved, even if:

- the employee does not cooperate with the investigation;
- disciplinary sanctions are not possible because the employee terminates their employment before the process has been completed.

In cases where an employer has a duty to refer an employee to Disclosure and Barring Service as the criteria for referral are met, agreements that enable the employee to resign with no disciplinary action and provision of future references should not be made.

Where the Area Manager dismisses an individual from work with children/adults (or would have, had the person not left first) because they pose a risk of harm, it must make a referral to the DBS. It is an offence to fail to make a referral without good reason. Where in doubt, advice should be sought from the DBS.

6. Record keeping

The Area Manager should keep a clear and comprehensive record of the allegation, decisions reached, and actions taken on the person's personnel file, a copy of which should be given to them.

The record should include details of how the allegation was followed up and resolved, the decisions reached, and the action taken. It should be kept at least until the person reaches normal retirement age or for 10 years if longer.

The record will provide accurate information for any future reference and provide clarification if a future DBS disclosure reveals an allegation that did not result in a prosecution or a conviction. It will prevent unnecessary re-investigation if the allegation should resurface.

Details of allegations that are found to be malicious should be removed from personnel records.

Each agency/organisation must take great care to ensure that the records they keep respect the confidentiality of the alleged victim and/or the accused adult.

7. References

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

8. Unsubstantiated or false allegations

Where it is decided there is not enough evidence to substantiate an allegation, the professional involved should inform the Area Manager in writing.

If it is established that an allegation has been deliberately invented, the police should be asked to consider if any action may be appropriate. The Area Manager should also consider whether there is any appropriate action they can take, including giving advice to the family with whom the child/adult is living, and obtaining additional support and mentoring for any child/adult who made a false allegation.

9. Referral to the Disclosure and Barring Service

Where allegations are substantiated, and in observance with our legal responsibilities, Realise Ed Ltd will report candidates to the Disclosure and Baring Service (DBS) where appropriate and seek advice where we are uncertain.

10. Learning lessons

At the conclusion of an investigation, Realise Ed Ltd and the LADO, and any other relevant parties, should undertake a review of the case.

This should ascertain whether there are lessons to be learned for the organisation, which would result in improvements to procedures or practice, in relation to the circumstances which led to the allegation.

The process of investigating the allegation should also be evaluated, to decide if there are also recommendations for improvements.

Where changes to policy are recommended, this should be implemented as soon as possible and communicated to all staff.

Consideration should be given by Realise Ed Ltd regarding how lessons learned can best be communicated to staff – whether this be by internal communication, supervision, staff meetings or training events.