



*I have come that they may have life and have it to the full  
(John 10:10)*

# **ALLEGATIONS OF ABUSE AGAINST STAFF IN SCHOOL**

**This policy is taken from the OLHOC Trust Handbook of Statutory policies and should be read in conjunction with the other policies within the document.**

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## ALLEGATIONS OF ABUSE AGAINST STAFF IN SCHOOL

### 1. Introduction

- 1.1. All employers are under an absolute duty to promote and safeguard the welfare of children at their school, and to have regard to guidance issued by the Secretary of State in so doing. The Our Lady Help of Christians Trust takes this responsibility seriously and will ensure that any allegation of abuse made against a teacher or other member of staff, contractor or volunteer is dealt with fairly, quickly and consistently, in accordance with the DfE guidance on Keeping Children Safe in Education (KCSIE).
- 1.2. This policy has two parts to it in line with the DfE KCSIE guidance. Section One deals with allegations that may meet the harm threshold (set out below). Section Two deals with allegations or concerns that do not meet the harm threshold, referred to as “low-level concerns”.
- 1.3. All members of staff will be made aware of this policy during induction.

### 2. Allegations that may meet the harm threshold

- 2.1. The procedure documented within this section of the policy must be used in any case where it is alleged that a teacher or other member of staff, supply teacher, contractor or volunteer engaged directly by the Trust has:
  - 2.1.1. behaved in a way that has harmed or may have harmed a child; and/or
  - 2.1.2. possibly committed a criminal offence against or related to a child; and/or
  - 2.1.3. behaved towards a child or children in a way that indicates the member of staff may pose a risk of harm to children; and/or
  - 2.1.4. behaved or may have behaved in a way that indicates the member of staff may not be suitable to work with children.
- 2.2. The Trust refers to the above criteria as the “harm threshold”.
- 2.3. The procedure set out below may be varied where the individual concerned is not an employee, to the extent it is appropriate in light of their working status. In addition, in the case of volunteers or supply teachers and contractors engaged via third parties, an alternative process may apply after a concern has been raised. Please see the final paragraph of Section Two.

### **3. How concerns arise**

- 3.1. Concerns about the possible abuse of children by staff will usually arise in one of two ways, either:
  - 3.1.1. a direct allegation by a student or a third party, for example a parent; or
  - 3.1.2. an observation by a member of staff that the behaviour of a colleague is inappropriate or potentially or actually abusive.
- 3.2. In either case, the concern must be recorded and reported to the CEO / Principal / Head Teacher immediately, unless the allegations are about the CEO / Principal / Head Teacher in which case, it must be reported to the Chair of Governors. If the CEO / Principal / Head Teacher is absent, the allegation should be reported to the teacher in charge.
- 3.3. As this is a statutory duty, the Trust expects all members of staff in the Trust, where they have concerns, to report them in accordance with this policy.

### **4. Initial action**

- 4.1. Where it is identified that a child has been harmed, there may be an immediate risk of harm to a child or if the situation is an emergency, staff should contact the local authority children's social care and, as appropriate, the police immediately in line with Part One of KCSIE.
- 4.2. The CEO / Principal / Head Teacher or Chair of Governors will ensure that they have a full understanding of what is being alleged from the member of staff or third party, only speaking to the child if it is unavoidable or it is the child making the allegation.
- 4.3. The CEO / Principal / Head Teacher or Chair of Governors will simply establish that:
  - 4.3.1. an allegation has been made;
  - 4.3.2. the general nature of the allegation;
  - 4.3.3. when and where the incident is alleged to have occurred;
  - 4.3.4. whether the individual did or could have come into contact with the child;
  - 4.3.5. who was involved;
  - 4.3.6. any other persons present/witnesses; and
  - 4.3.7. whether there is CCTV footage.

- 4.4. The matter will not be discussed with the person who is the subject of the allegation at this stage.

## **5. Consultation and referral**

- 5.1. It is important to ensure that even allegations that appear to be less serious are followed up and taken seriously and that they are examined objectively by someone independent of the Trust concerned.
- 5.2. If the allegation meets any of the harm threshold set out above, the CEO / Principal / Head Teacher or Chair of Governors must report it to the Local Authority Designated Officer (LADO) on the same day. The contact in Cheshire East is 01270 685904.

## **6. Initial consideration of the allegation**

- 6.1. The LADO's first step will be to discuss the allegation with the CEO / Principal / Head Teacher or Chair of Governors to confirm details of the allegation and establish that it is not demonstrably false or unfounded.
- 6.2. If the parents/carers of the child concerned are not already aware of the allegation, the LADO will also discuss how and by whom they should be informed.
- 6.3. In some circumstances the Trust may advise parents of an incident involving their child straight away, for example, if the child has been injured while at school or in a school related activity and requires medical treatment.
- 6.4. The CEO / Principal / Head Teacher will usually inform the accused person about the allegations as soon as possible after consulting the LADO. However, where a strategy discussion is needed, this will be deferred until after consultation with the police, children's social care and any other agencies, as appropriate, has taken place, and there is agreement about what information can be disclosed to the person.
- 6.5. 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. Where the CEO / Principal / Head Teacher or Chair of Governors is concerned about the welfare of any child, they should discuss this with the Designated Safeguarding Lead and make a risk assessment of the situation. The Designated Safeguarding Lead may need to make a referral to children's social care.

## **7. Strategy Meeting / Evaluation with Police**

- 7.1. If the allegation is not demonstrably false or unfounded, a formal referral will be made to LADO and a strategy meeting may be planned. A strategy discussion will be convened in accordance with "Working Together to Safeguard Children".

- 7.2. There may be up to three strands in the consideration of an allegation:
- 7.2.1. a police investigation of a possible criminal offence;
  - 7.2.2. enquiries and assessment under section 47 of the Children Act 1989 if a child is in need of protection or under section 17 of the Children Act 1989 if the child appears to be in need of services; and
  - 7.2.3. consideration by the employer of disciplinary action in respect of the individual.
- 7.3. A senior Trust representative, CEO / Principal / Head Teacher or Chair of Governors will attend any strategy meeting, unless there are good reasons not to do so, and provide details about the circumstances and context of the allegation and the student and member of staff concerned.

## **8. Suspension**

- 8.1. The possible risk of harm to children posed by an accused person needs to be assessed and managed – in respect of the child or children involved in the allegation, and any other children in the accused individual’s home, work or community life.
- 8.2. Suspension will be considered in any case where:
- 8.2.1. there is cause to suspect a child or children is or are at risk of harm;
  - 8.2.2. the allegation warrants formal investigation by the police;
  - 8.2.3. there is a likelihood that evidence may be tampered with, or witnesses intimidated; or
  - 8.2.4. the allegation is so serious that it might be grounds for dismissal.
- 8.3. The Trust will consider carefully whether the circumstances of a case warrant a person being suspended from contact with the children until the allegation is resolved. In deciding whether to suspend a member of staff, the Trust will consider advice given at a strategy meeting and any risk assessment. The Trust will also take into account the potential permanent professional reputational damage to employees that can result from suspension where the allegation is later found not to be substantiated. All options to avoid suspension will be considered prior to suspending an employee.
- 8.4. The following alternatives will be considered by the CEO / Principal / Head Teacher or Chair of Governors before suspending a member of staff:
- 8.4.1. redeployment within the Trust so that the individual does not have direct contact with the child or children concerned

- 8.4.2. providing an assistant to be present when the individual has contact with children
- 8.4.3. redeploying to alternative work in the Trust so the individual does not have unsupervised access to children
- 8.4.4. moving the child or children to classes where they will not come into contact with the member of staff, only where this is in the best interests of the child or children taking their view into account. In such cases it will be made clear that this is not a punishment and parents have been consulted; or
- 8.4.5. temporarily redeploying the member of staff to another role in a different location.
- 8.5. If immediate suspension is considered necessary, the rationale and justification for such a course of action will be agreed and recorded, including what alternatives to suspension have been considered and why they were rejected.
- 8.6. If an employee is suspended, they will be informed of this in writing and provided with a named contact at the Trust.

## **9. Action where police or local authority investigation is not necessary**

- 9.1. If the complaint or allegation is such that:
  - 9.1.1. it is clear that a criminal and/or child protection enquiries are not necessary, or
  - 9.1.2. the strategy discussion or initial evaluation decides that is the case.
- 9.2. The CEO / Principal / Head Teacher or Chair of Governors will discuss the next steps with the LADO.
- 9.3. In those circumstances, the options open to the Trust depend on the nature and circumstances of the allegation and the evidence and information available and will range from taking no further action or giving professional advice as part of an informal warning to conducting formal disciplinary action that could lead to dismissal or lesser formal warning.
- 9.4. Where **no further** action will be taken, the CEO / Principal / Head Teacher or Chair of Governors will record the decision and justification for it and agree on what information should be put in writing to the individual concerned and by whom.
- 9.5. If the nature of the allegation does **not require formal disciplinary action/investigation**, the CEO / Principal / Head Teacher will institute appropriate action within three working days. This would normally be professional advice or an informal warning - although a record will be kept of this.

- 9.6. Where **further enquiries will be needed** to enable a decision about how to proceed, the CEO / Principal / Head Teacher or Chair of Governors will agree with the LADO how and by whom the investigation will be undertaken.
- 9.7. In straightforward cases, such investigation should normally be undertaken by a senior member of staff of the Trust. However, if there is a lack of appropriate resources within the Trust or if the nature or complexity of the allegation so requires, an independent investigator will be appointed.
- 9.8. The following definitions will be used when determining the outcome of any investigation:
- 9.8.1. **Substantiated:** there is sufficient evidence to prove the allegation
  - 9.8.2. **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive or cause harm to the person who is the subject of the allegation
  - 9.8.3. **False:** there is sufficient evidence to disprove the allegation
  - 9.8.4. **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence
  - 9.8.5. **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made.
- 9.9. On receipt of the report of the disciplinary investigation, the CEO / Principal / Head Teacher or Chair of Governors should consult the LADO and decide whether a disciplinary hearing is needed within two working days. If a hearing is needed it should be held within 15 working days.

## **10. Action where police or local authority investigation is necessary**

- 10.1. The police or the Crown Prosecution Service (CPS) should inform the Trust and LADO straight away:
- 10.1.1. if it is decided to close an investigation without charge; or
  - 10.1.2. if it is decided not to prosecute after the person has been charged; or
  - 10.1.3. when a criminal investigation and any subsequent trial is complete.
- 10.2. In those circumstances, the LADO will discuss with the CEO / Principal / Head Teacher or Chair of Governors whether any further action, including disciplinary action is appropriate and, if so, how to proceed. The information provided by the police and/or children's social care services will inform that decision.

## **11. Supporting those involved**

- 11.1. The CEO / Principal / Head Teacher or Chair of Governors will notify the parents or carers of the child or children involved as soon as possible if they are not already aware of it, having consulted the LADO, children's social care and/or the police on the information that can be disclosed. Parents and carers should be reminded of the requirement to maintain confidentiality and made aware that there are restrictions on publishing information under the Education Act 2002. They will be kept informed of the progress of the case only to the extent it relates to their child (not information concerning the staff member).
- 11.2. The Trust recognises that this is likely to be a very stressful time for the member of staff concerned and will also keep them informed of the progress of the case as soon as possible and explain the likely course of action, provided there is no objection from children's social care services or the police and will be guided by them. The Trust will also consider what other support is appropriate for the individual.
- 11.3. Access to counselling services or medical advice should be provided and if the person is suspended, the Trust should also keep the individual informed about developments at the Trust and provide the employee with a named contact at the Trust. If the person is a member of a union or professional association, they should be advised to contact that body at the outset.

## **12. Confidentiality**

- 12.1. Any investigation will be conducted in confidence. Every effort will be made to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.
- 12.2. No-one in the Trust may provide any information to the press or media that might identify an individual under investigation, while an allegation is being investigated or considered. In addition, it is an offence to publish (including by speech or writing) any material that could lead to the identification of a teacher against whom there is an allegation, including on social media.
- 12.3. No-one in the Trust may disclose any information to anyone about the details of an investigation, as this may prejudice the right of the person under investigation to a fair hearing.
- 12.4. The CEO / Principal / Head Teacher or Chair of Governors should take advice from the LADO, police and children's social care services to agree the following:
  - 12.4.1. Who needs to know and, importantly, exactly what information can be shared;
  - 12.4.2. How to manage speculation, leaks and gossip;



12.4.3. What, if any information can be reasonably given to the wider community to reduce speculation; and

12.4.4. How to manage press interest if and when it should arise.

### **13. Timescales**

13.1. The Trust will endeavour to follow the timescales set out in the guidance for such investigations, as long as this is consistent with a fair and thorough investigation. However, it is acknowledged that serious and complex allegations are unlikely to be resolved quickly, particularly where specialist evidence is needed, or the matter comes to a contested trial.

### **14. Oversight and Monitoring**

14.1. The Trust will work closely with the LADO who has overall responsibility for oversight of the procedures for dealing with allegations.

14.2. The CEO / Principal / Head Teacher or Chair of Governors will usually review the progress of the case within four weeks of the initial assessment. Subsequent reviews will usually take place at fortnightly or monthly intervals, depending on the complexity of the case.

### **15. Outcomes and action on conclusion of a case**

15.1. Unsubstantiated, unfounded, false or malicious allegations

15.1.1. If an allegation is found to be unsubstantiated, unfounded, false or malicious, the LADO and the CEO / Principal / Head Teacher or Chair of Governors should consider if the child or person who made the allegation needs help or may have been abused by someone else, in which case a referral to children's social care may be appropriate.

15.1.2. In the rare event that an allegation is shown to have been deliberately invented or malicious, the CEO / Principal / Head Teacher will consider whether any disciplinary action is appropriate against the individual who made it; or whether the police should be asked to consider if action might be appropriate against the person responsible, even if they are not a student.

15.2. Substantiated allegations

15.2.1. Where an allegation is substantiated and the person is dismissed or their services cease to be used, or the person resigns or ceases to provide their services, the LADO should discuss the case with the CEO / Principal / Head Teacher or Chair of Governors and their HR advisor to discuss whether a Disclosure and Barring Service (DBS) referral is required and in the case of an individual engaged in teaching work, whether a referral to the Teaching Regulation Agency (TRA) is required.

## **16. TRA / DBS Referral**

- 16.1. There is a legal requirement for employers to make a referral to the DBS where they consider that an individual has engaged in conduct that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child.
- 16.2. In the case of a member of staff engaged in teaching work (which may include support staff such as TAs, HLTAs, Instructors and unqualified teachers as well as teachers), the Trust needs to consider whether to refer the matter to the TRA to consider prohibiting them from teaching.

## **17. Returning to Work**

- 17.1. In cases where it is decided on the conclusion of the case that a person who has been suspended can return to work, the Trust will consider how best to facilitate that, with advice from the LADO or HR as appropriate. Consideration will also be given to how best to manage the individuals' contact with the child or children who made the allegation if they are still in attendance at the Trust.

## **18. Resignations and settlement agreements**

- 18.1. Where a person under investigation tenders their resignation, or ceases to provide their services, the investigation into the allegation will still need to be completed in accordance with guidance and every effort made to reach a conclusion.
- 18.2. It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process.
- 18.3. Where possible, the individual will be given an opportunity to answer the allegation and make representations about it. Even if the individual does not cooperate, the Trust will continue to record the allegation, evidence and judgment on the basis of the information available wherever possible. The individual will be notified accordingly of the outcome and any sanctions that might be posed, where possible.
- 18.4. The Trust will not enter into "settlement agreements" by which if a person agrees to resign, the Trust agrees not to pursue disciplinary action and both parties agree a form of words to be used in any future reference, in circumstances where the allegations indicate the individual is a risk or poses a risk of harm to children or is deemed not suitable to work with children.
- 18.5. It is also not appropriate to use a settlement agreement if the individual resigns or their services cease to be used.

- 18.6. Settlement Agreements should also not be entered into in cases where the individual refused to cooperate or resigns before the person's notice period expires.
- 18.7. Where a settlement agreement is entered into, it will not prevent the Trust from referring the matter to the DBS, providing a reference to potential employers when requested or making a referral to the TRA.

## **19. Record keeping**

- 19.1. Where the outcome of the allegation is that it is substantiated, unfounded or unsubstantiated, the following information will be kept on the individual's personnel record:
- 19.1.1. a clear and comprehensive summary of any allegations made;
  - 19.1.2. details of how the allegation was followed up and resolved;
  - 19.1.3. a note of any action taken, and decisions reached, including the outcome e.g. substantiated, unfounded or unsubstantiated);
  - 19.1.4. a copy provided to the person concerned, where agreed by children's social care or the police; and
  - 19.1.5. a declaration on whether the information will be referred to in any future reference.
- 19.2. If the allegations are found to be false or malicious, the Trust will remove them from the employee's personnel record.
- 19.3. At the conclusion of the investigation, if the person under investigation is exonerated, the Trust will write to the person confirming this, and send a copy to the LADO and place a copy on the person's personnel file.
- 19.4. The Trust has an obligation to preserve records which contain information about allegations of sexual abuse for the Independent Inquiry into Child Sexual Abuse (IICSA) for the term of the inquiry. All other records will be retained at least until the employee reaches normal pension age or for 10 years from the date of the allegation if that is longer. The purpose of the record is to enable accurate information to be given in response to any future reference request, where appropriate, and to provide clarification in future DBS checks and help prevent unnecessary re-investigation if an allegation resurfaces after a period of time.

## **20. References**

- 20.1. Cases in which an allegation was proven to be false, unsubstantiated, unfounded or malicious will not be included in employer references. Any repeated concerns or allegations

which have all been found to be false, unsubstantiated, unfounded or malicious will not be included in any reference.

- 20.2. Where substantiated concerns or allegations meet the harm threshold, the outcome will be made clear when the Trust provides references to prospective employers.

## **21. Learning lessons**

- 21.1. Throughout the process of handling allegations and at the conclusion of a case in which an allegation is substantiated the CEO / Principal / Head Teacher or Chair of Governors will review the case with the LADO to determine whether there are any improvements to be made to the Trust's procedures or practice to help prevent similar events in the future. This includes issues arising from a decision to suspend a member of staff, its duration, whether the suspension was justified, using suspension where an individual is later reinstated and how future investigations of a similar nature could be carried out without suspension.
- 21.2. For all other cases, where the allegation was found to be unfounded, false, malicious or unsubstantiated, the CEO / Principal / Head Teacher or Chair of Governors and the LADO (where they are involved) should consider the facts and decide if any lessons could be learned or improvements made.

## **22. Allegations concerning staff not directly employed by the Trust**

- 22.1. In some cases, the Trust will need to consider an investigation case in which normal disciplinary procedures do not apply and may need to act jointly with another organisation.
- 22.2. That will be necessary when, for example, an allegation is made against a supply teacher provided by an employment agency or business, or against a person employed by a contractor, or a volunteer provided by a voluntary organisation. In such cases, normal disciplinary procedures would not be appropriate because the person is a volunteer or self-employed or otherwise not directly employed by the Trust.
- 22.3. Although, in those cases, the Trust will not have a direct employment relationship with the individual, the Trust will cooperate and be involved in the investigation, any referral to the LADO and in reaching a decision about whether to continue to use the person's services, or to provide the person for work with children in future, and whether to report the person to DBS/TRA. In no circumstances will the Trust cease to use a supply teacher due to safeguarding concerns without finding out the facts and liaising with the LADO to determine a suitable outcome.

## **23. Low-Level Concerns or Allegations that do not meet the harm threshold**

- 23.1. In line with Section Two of Part Four of Keeping Children Safe in Education, the Trust recognises the importance of creating a culture of openness, trust and transparency to encourage all staff to share low-level concerns with the right person so that they can be

addressed appropriately. The purpose of the Trust's approach to low-level concerns is to ensure that the Trust's values are constantly lived, monitored and reinforced by staff.

## **24. Definition of low-level concerns**

24.1. The term 'low-level' concern does not mean that the concern is insignificant, it means that the threshold set out at the start of this policy has not been met. A low-level concern covers any concern no matter how small, even if it is no more than causing a sense of unease or a 'nagging doubt' - that an adult working in or on behalf of the Trust may have acted in a way that:

24.1.1. is inconsistent with the staff code of conduct, including inappropriate conduct outside of work and;

24.1.2. does not meet the allegations threshold or is otherwise not considered serious enough to consider a referral to the LADO.

24.2. Examples of such behaviour could include, but are not limited to:

24.2.1. being over friendly with children

24.2.2. having favourites

24.2.3. taking photographs of children on a personal mobile phone

24.2.4. engaging with a child on a one-to-one basis in a secluded area or behind a closed door

24.2.5. humiliating students.

24.3. Such behaviour can exist on a wide spectrum, from inadvertent or thoughtless, to behaviour that might look inappropriate but might not be in specific circumstances, to behaviour which is intended ultimately to enable abuse.

## **25. How do low-level concerns arise**

25.1. Low-level concerns may arise in a number of ways, including a suspicion, complaint or disclosure made by a child, parent or adult, or due to the result of vetting checks.

25.2. The Trust aims to create an environment where staff are encouraged and feel confident to self-refer. For example, where they have found themselves in a situation that could be misinterpreted or when on reflection, they have behaved in a way that falls below the expected professional standards.

## **26. Sharing low-level concerns**

- 26.1. Low-level concerns about a member of staff, supply staff, volunteer or contractor should be reported to the CEO / Principal / Head Teacher. Any concerns about the CEO / Principal / Head Teacher should be reported to the Chair of Governors.
- 26.2. If the Designated Safeguard Lead is informed, they should inform the CEO / Principal / Head Teacher in a timely fashion according to the nature of the low-level concern.
- 26.3. The CEO / Principal / Head Teacher will be the ultimate decision maker in respect of such concerns but depending on the nature of the concerns and the role of the Designated Safeguard Lead, the Designated Safeguarding Lead may be involved in that decision.
- 26.4. The CEO / Principal / Head Teacher will share any low-level concerns regarding supply staff and contractors with their employer as soon as possible.
- 26.5. The CEO / Principal / Head Teacher will consult the LADO if they are unsure whether the concern meets the harm threshold.
- 26.6. It is crucial that all low-level concerns are raised with the right person in a responsible way and are dealt with and recorded appropriately to help protect those working in schools or colleges from becoming the subject of potential false low-level concerns or misunderstandings.

## **27. Responding to Reports of Low-Level Concerns**

- 27.1. When a low-level concern has been reported, the CEO / Principal / Head Teacher will try to gather as much initial information as possible. This may involve speaking to the individual who raised the concern to establish how they are aware of the concern raised, details of where any alleged behaviour took place, by whom, when, against whom and any persons present who may be a witness.
- 27.2. The CEO / Principal / Head Teacher will then decide whether the matter needs further investigation. If so, this may involve looking at documentary evidence, CCTV, speaking to the individual who raised the concern further, speaking to any witnesses and speaking to the individual who is the subject of the concern.
- 27.3. The outcome of the investigation will be reviewed by the CEO / Principal / Head Teacher who will then determine what further action, if any, is required.

## **28. Recording low-level concerns**

- 28.1. All low-level concerns will be recorded in writing. Each record will include detail of the concern, the context in which the concern arose, and action taken. The name of the individual who raised the concern should be noted but if they wish to remain anonymous, that will be respected to the extent it is reasonably possible to do so.

- 28.2. Records will be kept confidential, held securely and comply with the Data Protection Act 2018 and the UK General Data Protection Regulation.
- 28.3. Records will be reviewed so that potential patterns of concerning, problematic or inappropriate behaviour can be identified. Where a pattern of such behaviour is identified, the Trust will decide on a course of action, either through the Trust's Disciplinary Policy and Procedure or by referring to the LADO, where a pattern of behaviour moves from a low-level concern to meeting the harms threshold. The Trust will also consider whether there are wider cultural issues existing in the Trust that may have enabled the behaviour to occur. If this is found to be the case or a contributory factor, the Trust may review its policies and deliver extra training where it considers this will minimise the events happening again.

## **29. Low-level concerns and references**

- 29.1. Low-level concerns will not be included in references unless they relate to issues which would normally be included in a reference, for example, misconduct or poor performance. Where a low-level concern (or group of concerns) has met the harm threshold for referral to the LADO and found to be substantiated, it will be referred to in a reference.

