



Allegations of Abuse Against Staff

Policy and Procedure

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Introduction

1.1 This policy/procedure is about managing cases of allegations that might indicate that a person is unsuitable to continue to work with children in their present position, or in any capacity. It should be 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;
- Possibly committed a criminal offence against or related to a child; or
- Behaved towards a child or children in a way that indicates he/she is unsuitable to work with children.

1.2 This policy should be read in conjunction with the Schools Disciplinary Policy/Procedure for dealing with allegations, and all staff and volunteers should understand what to do if they receive an allegation against another member of staff, or if they themselves have concerns about the behaviour of another member of staff. All allegations should be reported straight away to the Head Teacher, if the allegation made is against the Head Teacher the report should be made to the Chair of Governors. Advice should then be sought from the designated Local Authority Officer responsible for providing advice and monitoring cases.

1.3 There may be up to 3 strands in the consideration of an 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

Some cases will also need to be reported to the DfE for consideration of including the person on List 99, or consideration by the General Teaching Council (GTC), about possible sanctions against an individual.

Supporting Those Involved

1.4 Parents or cases of a child or children involved should be told about the allegation as soon as possible if they do not already know of it (subject to paragraph 1.15). They should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. Please note that the deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but the parents or carers of the child should be told the outcome.

1.5 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, should consider what support the child or children involved may need.

1.6 The school should 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 the individual e.g. counselling. If the person is suspended, the school should keep the individual informed about developments at the school. If the person is a member of a trade union or a professional association, he/she should be advised to contact that body at the outset.

Confidentiality

1.7 Every effort should be made to maintain confidentiality and guard against unwanted publicity whilst an allegation is being investigated or considered. In accordance with the Association of Chief Police Officers' (ACPO) guidance the police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. (In exceptional cases where the police might depart from that rule e.g. an appeal to trace a suspect, the reasons should be documented and partner agencies consulted beforehand). The system of self-regulation, overseen by the Press Complaints Commission, also

provides safeguards against the publication of inaccurate or misleading information.

Resignations and Compromise Agreements

- 1.8 The fact that a person tenders his or her resignation, or ceases to provide their services, must not prevent an allegation being followed up in accordance with these procedures. 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 co-operate with the process. Wherever possible, the person should be given a full opportunity to answer the allegations and make representations about it, but the process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be regarded as substantiated on the basis of all the information available should continue even if that cannot be done or the person does not cooperate. It may be difficult to reach a conclusion in those circumstances, and it may not be possible to apply any disciplinary sanctions 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.
- 1.9 By the same token 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, must not be used in these cases. In any event, such an agreement will not prevent a thorough police investigation where that is appropriate. Nor can it override the statutory duty to make a referral to List 99 where circumstances require that.

Record Keeping

- 1.10 It is important that a clear and comprehensive summary of any allegations made, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the 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. It will provide clarification in cases where a future CRB Disclosure reveals information from the police about an allegation that did not result in a criminal conviction; and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record should be retained at least until the person has reached formal retirement age or for a period of 10 years from the date of the allegation if that is longer.

Timescales

- 1.11 It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. Every effort should be made to manage cases to avoid any unnecessary delay. Indicative target timescales are shown for different actions in the summary description of the process below. Those are not performance indicators: the time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation, but they provide useful targets to aim for that are achievable in many cases. Working together to Safeguard Children states that it is reasonable to expect that 80 per cent of cases should be resolved within one month, 90 per cent within three months, and all but the most exceptional cases should be completed within 12 months.

Oversight and Monitoring

- 1.12 Local authorities with responsibility for schools should have a named senior officer who has overall responsibility for oversight of the procedures for dealing with allegations; for resolving any inter-agency issues, and for liaison with the Local Safeguarding Children Board (LSCB) on the subject. In addition, designated local authority officers should also be involved in the management and

oversight of individual cases. The designated local authority officer(s) will provide advice and guidance to schools and, in addition to liaising with the police and other agencies, and monitoring the progress of cases to ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process.

- 1.3 Police forces should also identify officers to fill similar roles; a senior officer to have strategic oversight of the arrangements and ensure compliance; and others, perhaps unit managers, who will be responsible for: liaising with the designated local authority officer(s), taking part in the strategy discussion, or initial evaluation, subsequently reviewing the progress of those cases in which there is a police investigation, and sharing information on completion of the investigation or any prosecution.

Initial Considerations

- 1.14 The procedures need to be applied with common sense and judgement. In rare cases allegations will be so serious as to require immediate intervention by children's social care and/or police. Others that meet the criteria in paragraph 1.1 may seem much less serious and on the face of it will not warrant consideration of a police investigation, or enquiries by children's social care. However, it is important to ensure that even allegations that appear less serious are seen to be followed up and taken seriously, and that they are examined objectively by someone independent of the school concerned. Consequently, the local authority designated officer should be informed of all allegations that come to the school's attention and appear to meet the criteria in paragraph 1.1, so that he/she can consult police and social care colleagues as appropriate. The local authority designated officer should also be informed of any allegations that are made directly to the police or to children's social care.

- 1.15 The local authority designated officer's first step will be to discuss the allegation with the Head teacher (or chair of governors) to confirm details of the allegation and establish that it is not demonstrably false or unfounded. If the parents/carers of the child concerned are not already aware of the allegation, the designated officer will also discuss how and by whom they should be informed. In circumstances in which the police or social care may need to be involved, the local authority officer should consult those colleagues about how best to inform parents. However, in some circumstances the school may need to 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.

- 1.16 The head teacher should inform the accused person about the allegation as soon as possible after consulting the local authority designated officer. However, where a strategy discussion is needed, or police or children's social care may need to be involved, the head teacher should not do that until those agencies have been consulted, and have agreed what information can be disclosed to the person. If the person is a member of a trade union or professional association he/she should be advised to contact that organisation at the outset.

- 1.17 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 should be convened in accordance with paragraph 1.54 of Working Together to Safeguard Children. Please note that in these cases the strategy discussion should include a representative of the school (unless there are good reasons not to do that), and take account of any information the school can provide about the circumstances or context of the allegation and the pupil and member of staff concerned.

- 1.18 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 local authority designated officer should nevertheless conduct a similar discussion with the police, the school and any other agencies involved with the child to evaluate the allegation and decide how it should be

dealt with. (The police must be consulted about any case in which a criminal offence may have been committed). Like a strategy discussion, that initial evaluation may not need to be a face to face meeting. It should share available information about the allegation, the child, and the person against whom the allegation has been made, consider whether a police investigation is needed and if so, agree the timing and conduct of that. In cases where a police investigation is necessary the joint evaluation should also consider whether there are matters which can be taken forward in a disciplinary process in parallel with the criminal process, or whether any disciplinary action will need to wait completion of the police enquiries and/or prosecution.

- 1.19 If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should 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, under s550A of the Education Act 1996.
- 1.20 If the complaint or allegation is such that it is clear that an investigation by police and/or enquiries by social care are not necessary, or the strategy discussion or initial evaluation decides that is the case, the local authority designated officer should discuss next steps with the head teacher and chair of governors. In those 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.
- 1.21 In some such cases further enquiries will be needed to enable a decision about how to proceed. If so, the local authority designated officer should discuss with the head teacher and chair of governors how and by whom the investigation will be undertaken. In straightforward cases that should normally be undertaken by a senior member of the school staff. However, in other circumstances, lack of appropriate resource within a school or the nature or complexity of the allegation will require an independent investigator.

Suspension

- 1.22 The possible risk of harm to children posed by an accused person needs to be effectively evaluated and managed – in respect of the child(ren) involved in the allegations, and any other children in the individual's home, work or community life. In some cases that will require the school to consider suspending the person until the case is resolved.
- 1.23 Suspension should 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 must not be suspended automatically, or without careful thought. Schools must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children until the allegation is resolved, and may wish to seek advice from their personnel adviser. Schools should also consider whether the result that would be achieved by suspension could be obtained by alternative arrangements.
- 1.24 Neither the local authority, the police, nor children's social care can require a school to suspend a member of staff or a volunteer. The power to suspend is vested in the head teacher and the governing body of the school. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by social care and/or an investigation by the police, the local authority designated officer should canvass police and social care views about whether the accused member of staff needs to be suspended from contact with children, to inform the school's consideration of suspension.

Monitoring Progress

- 1.25 The local authority designated officer should regularly monitor the progress of cases either via review strategy discussions or by liaising directly with the police and/or children's social care

colleagues, or the employer as appropriate. Reviews should be conducted at fortnightly or monthly intervals depending on the complexity of the case.

- 1.26 If the strategy discussion or initial assessment decides that a Police investigation is required, the Police should also set a target 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. Where possible, that review should take place no later than four weeks after the initial evaluation. Dates for subsequent reviews, ideally at fortnightly intervals, should be set at the meeting if the investigation continues.

Information Sharing

- 1.27 In a strategy discussion or the initial evaluation of the case the agencies concerned should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.
- 1.28 Wherever possible, the Police should obtain consent from the individuals concerned to share the statements and evidence they obtain with the school for disciplinary purposes. That should be done as their investigation proceeds rather than after it is concluded. That will enable the Police to share relevant information without delay at the conclusion of their investigation or any course case.
- 1.29 Children's social care should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation is in need of protection or services so that any information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to the school without delay.

Action Following a Criminal Investigation or Prosecution

- 1.30 The police or the Crown Prosecution Service (CPS) should inform the school and local authority designated officer straightaway when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to prosecute after the person has been charged. In those circumstances the local authority designated officer should discuss with the head teacher and 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 should inform that decision. The options will depend on the circumstances of the case and the consideration will need to take account of the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

Action on Conclusion of a Case

- 1.31 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 local authority designated officer should discuss with the school and its personnel adviser whether a referral to DfE for consideration of List 99 action or by the GTC is required, or advisable, and the form and content of a referral.
- 1.32 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 should consider how best to facilitate 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 should 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 the school.

Learning Lessons

1.33 At the conclusion of a case in which an allegation is substantiated the local authority designated officer should review the circumstances of the case with the head teacher and chair of governors to determine whether there are any improvements to be made to the school's or procedures or practice to help prevent similar events in the future.

Action in Respect of False Allegations

1.34 If an allegation is determined to be false, the local authority designated officer should 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. In the rare event that an allegation is shown to have been deliberately invented or malicious, the head teacher should 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 if he/she was not a pupil.

Summary of Process

Allegation Made to School

1.35 The allegation should be reported to the head teacher immediately unless the allegation is about the head teacher in which case it should be reported to the chair of governors.

1.36 If the allegation meets any of the criteria set out in paragraph 1.1, the Head Teacher should report it to the Local Authority Designated Officer the same day.

Allegation made to the Police or Children's Social Care

1.37 If an allegation is made to the police, the officer who receives it should report it to the force designated liaison officer without delay and the designated liaison officer should inform the local authority designated officer straight away. Similarly if the allegation is made to children's social care the person who receives it should report it to the local authority designated officer without delay.

Initial Consideration

1.38 The local authority designated officer will discuss the matter with the head teacher and where necessary obtain further details of the allegation and the circumstances in which it was made. The head teacher should not investigate the allegation at this stage. The discussion should also consider whether there is evidence or information that establishes that the allegation is false or unfounded.

1.39 If the allegation is not patently false and there is cause to suspect that a child is suffering or likely to suffer significant harm, the local authority designated officer will immediately refer to children's social care and ask for a strategy discussion in accordance with Working Together to Safeguard Children to be convened straight away. In those circumstances the strategy discussion should include the local authority designated officer and the head teacher.

1.40 If there is not cause to suspect that 'significant harm' is an issue, but a criminal offence might have been committed, the local authority designated officer should immediately inform the police and convene a similar discussion to decide whether a police investigation is needed. That discussion should also involve the school or and any other agencies involved with the child.

Action Following Initial Consideration

1.41 Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the employer to deal with it. In such cases, if the nature of the allegation does

not require formal disciplinary action, the head teacher should institute appropriate action within three working days. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days.

- 1.42 Where further investigation is required to inform consideration of disciplinary action the head teacher and the school or personnel adviser should discuss who will undertake that with the local authority designated officer. In some settings and circumstances it may be appropriate for the disciplinary investigation to be conducted by a person who is independent of the school. In any case the investigation officer should aim to provide a report to the employer within 10 working days.
- 1.43 On receipt of the report of the disciplinary investigation, the head teacher and chair of governors should consult the local authority designated officer, 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.
- 1.44 In any case in which children's social care has undertaken enquiries to determine whether the child or children are in need of protection, the head teacher and chair of governors should take account of any relevant information obtained in the course of those enquiries when considering disciplinary action

Case Subject to Police Investigation

- 1.45 The local authority designated officer should continue to liaise with the school to monitor progress of the case and provide advice or support when required or requested.
- 1.46 If a criminal investigation is required, the police will aim to complete their enquiries as quickly as possible, consistent with a fair and thorough investigation, and will keep the progress of the case under review. They should at the outset set a target date for reviewing progress of the investigation and consulting the CPS about whether to proceed with the investigation, charge the individual with an offence, or close the case. Wherever possible that review should take place no later than four weeks after the initial action meeting and if the decision is to continue to investigate the allegation dates for subsequent review should be set at that point. (It is open to the police to consult the CPS about the evidence that will need to be obtained in order to charge a person with an offence at any stage).
- 1.47 If the police and/or CPS decide not to charge the individual with an offence, or decide to administer a caution, or the person is acquitted by a Court, the police should wherever possible aim to pass all information they have which may be relevant to a disciplinary case to the employer within three working days of the decision. In those circumstances the employer and the local authority designated officer should proceed as described in paragraphs 1.41 and 1.45 above. In any case in which children's social care has undertaken enquiries to determine whether the child or children are in need of protection, any information obtained in the course of those enquiries which is relevant to a disciplinary case should also be passed to the school.
- 1.48 If the person is convicted of an offence the police should also inform the employer straight away so that appropriate action can be taken.

Referral to DfE

- 1.49 If on conclusion of the case the school ceases to use the person's services, or the person ceases to provide his or her services, the school should consult the local authority designated officer about whether a referral to DfE is required. If a referral is appropriate the report should be made within one month. See Appendix 1 for guidance on reporting individuals to the Secretary of State.

Appendix I:

Reporting Individuals to the Secretary of State

When must a report be made to the Secretary of State?

Reporting Misconduct

Employers and agents in the education sector are required to supply information to the Department where they have ceased to use the services of a person (including a teacher provided by a supply agency, or a volunteer) because they consider that the person is unsuitable to work with children, or as a result of misconduct, or because of a medical condition that raises a possibility of risk to the safety or welfare of children. They are also required to provide information where they would have ceased to use the person's services on these grounds if the person had not ceased to provide them, or might have refrained from making new arrangements for a person on these grounds if the person had not ceased to make themselves available for work, for example if the person resigned, or left under the terms of a compromise agreement, where the disciplinary process may have been considered had they not done so. It is also good practice for employers to notify the Department where they have refused employment, paid or unpaid, to an individual on the basis of CRB Disclosure information, where the individual does not already appear on List 99.

The information to be provided to the Department is listed in schedule 1 to the Education (Prohibition from Teaching or Working with Children) Regulations 2003 (SI 2003/1184).

Reports should be made promptly, preferably within a month of the person's dismissal or resignation. Employers should also contact the Department if they have concerns that there may be medical grounds for barring an employee, trainee teacher or prospective trainee teacher from relevant employment. Information about barring on medical grounds is contained in DfE Circular 4/99, Physical and Mental Fitness to Teach of Teachers and of Entrants to Initial Teacher Training.

What Information should be provided to the Department?

The information to be provided to the Department is listed in schedule 1 to the Education (Prohibition from Teaching or Working with Children) Regulations 2003 (SI 2003/1184). Employers are required by the Regulations to report the facts of the case and provide all relevant information, relating to the circumstances of the dismissal or resignation to the Secretary of State. When a person has not been convicted of an offence, the Secretary of State can only act if the allegation of misconduct has been substantiated by other means. It is particularly important that, wherever possible, reports about these cases contain copies of any supporting evidence, such as statements relating to the misconduct, notes of any interviews with the person and minutes of any disciplinary interviews. Employers should also inform the staff member that their case is being reported to the Department and advise them to retain any relevant paperwork which they may need if it is necessary to consider their case further.

What Information provided to the Department will be disclosed to anyone else?

Any information received will be disclosed to the teacher or worker whose case being considered. If it is appropriate to obtain a medical report from a consultant forensic psychiatrist or from the person's treating physician, the information will also be disclosed to the Department's Medical Advisor and to the consultant or physician. Information may also be disclosed to the Department's expert panel, who advised the Secretary of State on issues around employment and barring.

In addition, if a teacher appeals to the Care Standards Tribunal against a decision by the Secretary of State to bar or restrict their employment or against a decision not to remove their name from List 99, any information provided about the case may be passed to the Tribunal.

Similarly, both medical evidence and advice provided by the Department's medical adviser may be provided to the Care Standards Tribunal, but withheld from the teacher or worker concerned. In these circumstances, the information may be made available to the person's representative.

What about teachers who are registered with the General Teaching Council for England or the General Teaching Council for Wales?

When the Department receives a report about a teacher who is registered with the General Teaching Council for England or the General Teaching Council for Wales, they will determine whether the case involves issues relating to the safety and welfare of children and, if it does not, they will pass the papers to the relevant Council, which will then consider the case under its disciplinary functions.

Will employers be informed of the outcome of a report?

If an employer (or employment business or agency) has informed the Department of a person's misconduct, they will also let them know the outcome of the Department's consideration of the case. When a person is working in relevant employment, they will consult their employer before any decision is taken to bar them or place a restriction on their employment.

How does the Department deal with these cases?

Guidance on the processes followed in dealing with cases of misconduct and health barring is contained in Child Protection: Procedures for Barring or Restricting People Working with Children in Education which is available from the Children's Safeguarding Operations Unit (List 99) and the Department's website at www.teachernet.gov.uk/docbank/index.cfm?id=4778