



Duties as an Employer and an Employee.

This policy outlines the way in which the school manages cases of allegations that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children in their present position, or in any capacity. Under the statutory guidance 'Working together to safeguard children' 2018 it is very important that the school differentiates between allegations, concerns about the quality of care or practice and complaints. The School contacts the in respect of all cases in which it is alleged that a teacher or member of staff, including volunteers, 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 or she would pose a risk of harm to children.
- behaved or may have behaved in a way that indicates they may not be suitable to work with children

More information about the harm test can be found on the DBS website at GOV.UK.

This policy relates to members of staff and volunteers who are currently working in school regardless of whether the school is where the alleged abuse took place. Allegations against a teacher who is no longer teaching should be referred to the police. Historical allegations should also be referred to the police.

The Principal discusses every allegation about an employee's conduct with the Local Authority Designated Officer (LADO). The Principal also informs the Safeguarding Governor and Chair of Governors at this point and keeps them up to date with progress until there is a resolution. As part of the school's duty of care to its employees, effective support is provided for anyone facing an allegation; a named contact will be provided if the employee is suspended from work. Any allegation of abuse made against a teacher or other member of staff or volunteer will be dealt with very quickly, in a fair and consistent way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation.

Under the statutory guidance: "Keeping children safe in education 2020", all staff must know the contents of the managing allegations against staff policy. The school manages this as part of the new staff induction process.

Initial considerations.

The procedures for dealing with allegations are applied with common sense and judgement. Many cases may well either not meet the criteria set out above, 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, local arrangements are followed to resolve cases without delay.

Some rare allegations will be so serious they require immediate intervention by children's social care services and/or police. All allegations that come to the school's attention and appear to meet the criteria are referred to The Local Authority Designated Officer (LADO)¹ will be informed of so they can consult police and children's social care services as appropriate.

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

- **Substantiated:** there is sufficient evidence to prove the allegation

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- 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 either 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 which supports the allegation being made.

The initial discussion with the LADO and the Case Manager will consider the nature, content and context of the allegation and agree a course of action. The LADO may request relevant additional information, such as previous history, whether the child or their family have made similar allegations previously and the individual's current contact with children.

In the event that the Principal is the subject of an allegation, staff may wish to discuss their concerns with the Designated Safeguarding Lead (DSL) and make any referral via them. In these cases, the Chair of Governors will take the role of the Case Manager. If the Chair of Governors is not available, the DSL will contact the LADO directly.

In some situations the Case Manager will involve the police immediately, for example if the person is deemed to be an immediate risk to children or there is evidence of a possible criminal offence. Where there is no such evidence, the Case Manager discusses the allegations with the LADO in order to help determine whether police involvement is necessary.

The initial sharing of information and evaluation may lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern.

In this case, the decision and a justification for it will be recorded by both the Case Manager and the LADO. An agreement will be reached on what information will be put in writing to the individual concerned and by whom. The Case Manager will then consider with the LADO what action should follow both in respect of the individual and those who made the initial allegation.

The Case Manager will inform the accused person about the allegation as soon as possible after consulting the LADO. The Case Manager must provide them with as much information as possible at that time. However, where a strategy discussion is needed², or police or children's social care services need to be involved, the Case Manager should not inform the accused person until those agencies have been consulted, and have agreed what information can be disclosed to them.

The Case Manager must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the school or whether alternative arrangements can be put in place until the allegation or concern is resolved. All options to avoid suspension should be considered prior to taking that step - see further information on suspension which follows.

If 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 *Working Together to Safeguard Children 2015*. If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take into account that teachers and other school and college staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour, under the school's positive handling policy.

Where it is clear that an investigation by the police or children's social care services is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the LADO will discuss the next steps with the Case Manager. In those circumstances, the options open to the school depend on the nature and circumstances of the allegation and the evidence and information available. This will range from taking no

² An explanation about the purpose of a strategy discussion and those likely to be involved can be found in the Government Statutory guidance: Working together to safeguard pupils 2018

further action to dismissal or a decision not to use the person's services in future. Suspension will not be the default position: an individual will be suspended only if there is no reasonable alternative.

In some cases, further enquiries will be needed to enable a decision about how to proceed. If so, the LADO will discuss with the Case Manager how and by whom the investigation will be undertaken. In straightforward cases, the investigation will normally be undertaken by a senior member of the school's staff. However other circumstances, such as lack of appropriate resource within the school, or the nature or complexity of the allegation will require an independent investigator. This will be organised in liaison with the local authority.

Supporting those involved.

The school, as an employer, has a duty of care to its employees. It will act to manage and minimise the stress inherent in the allegations process. Support for the individual is vital to fulfilling this duty. Individuals will be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by the children's social care services or the police. The individual will be advised to contact their trade union representative, if they have one, or a colleague for support. They will also be pointed towards appropriate welfare counselling or medical services.

The Case Manager will appoint a named representative to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual. This may include support via the local authority occupational health or employee welfare arrangements. Particular care is taken when employees are suspended to ensure that they are kept informed of both the progress of their case and current work-related issues. Social contact with colleagues and friends will not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

Parents or carers of a child or children involved will be told about the allegation as soon as possible if they do not already know of it. However, where a strategy discussion is required, or police or children's social care services need to be involved, the Case Manager will not contact parents / carers until those agencies have been consulted and have agreed what information can be disclosed to them. Parents or carers will 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. 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 will be told the outcome in confidence.

Parents and carers will also be made aware of the prohibition on reporting or publishing allegations about teachers in section 141F of the Education Act 2002 (see below). If parents or carers wish to apply to the court to have reporting restrictions removed, they will be told to seek legal advice. In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's social care services, or the police as appropriate, will consider what support the child or children involved may need.

Confidentiality.

When an allegation is made, the school will make every effort to maintain confidentiality and guard against unwanted publicity while it is being investigated or considered. The Education Act 2002 introduced reporting restrictions preventing the publication of any material that may lead to the identification of a teacher in a school who has been accused by, or on behalf of, a pupil from the same school (where that identification would identify the teacher as the subject of the allegation). The reporting restrictions apply until the point that the accused person is charged with an offence, or until the Secretary of State or the General Teaching Council for Wales publishes information about an investigation or decision in a disciplinary case arising from the allegation. The reporting restrictions also cease to apply if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a judge lifts restrictions in response to a request to do so. The provisions commenced on 1 October 2012.

The legislation imposing restrictions makes clear that “publication” of material that may lead to the identification of the teacher who is the subject of the allegation is prohibited. “Publication” includes “any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public”. This means that a parent who, for example, published details of the allegation on a social networking site would be in breach of the reporting restrictions (if what was published could lead to the identification of the teacher by members of the public).

In accordance with Authorised Professional Practice guidance (College of Policing 2017) 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 would like to depart from that rule, for example an appeal to trace a suspect, they must apply to a magistrates’ court to request that reporting restrictions be lifted).

The Case Manager will take advice from the LADO, police and children’s social care services to agree the following:

- Who needs to know and, importantly, exactly what information can be shared;
- How to manage speculation, leaks and gossip;
- What, if any information can be reasonably given to the wider community to reduce speculation; and
- How to manage press interest if and when it should arise.

Managing the situation and exit arrangements: Resignations and ‘Settlement/Compromise Agreements’.

If the accused person resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with this guidance. A referral to the DBS *must* be made, if any of the following criteria are met:

- **the harm test is satisfied in respect of that individual;**
- **the individual has received a caution or conviction for a relevant offence, or**
- **if there is reason to believe that the individual has committed a listed relevant offence; and that the individual has been removed from working (paid or unpaid) in regulated activity or would have been removed had they not left.**

The school will also consider whether a referral to the Teacher Regulation Agency (TRA) is appropriate. If the accused person resigns or their services cease to be used and the criteria are met it will not be appropriate to reach a settlement/compromise agreement. A settlement/compromise agreement which prevents the school or college from making a DBS referral when the criteria are met would likely result in a criminal offence being committed as the school would not be complying with its legal duty to make the referral.

Every effort will be 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. Wherever possible the accused will be given a full opportunity to answer the allegation 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 substantiated on the basis of all the information available, will continue even if that cannot be done or the accused 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.

‘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, are not used in cases of refusal to cooperate or resignation before the person’s notice period expires. Such an agreement will not prevent a thorough police investigation where that is appropriate.

Record keeping.

Details of allegations that are found to have been malicious are removed from personnel records. However, 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 any action taken and decisions reached, is kept on the confidential personnel file of the accused, 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, 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 re-surfaces after a period of time. The record should be retained at least until the accused has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

The school pays heed to the practical advice on record retention provided in the Employment Practices Code and supplementary guidance published by the Information Commissioner,

Cases in which an allegation was proven to be 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.

Timescales.

It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations will be investigated as a priority to avoid any delay. Target timescales are shown below: 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 these targets should be achieved in all but truly exceptional cases. It is expected that 80 per cent of cases should be resolved within one month, 90 per cent within 3 months, and all but the most exceptional cases should be completed within 12 months.

For those cases where it is clear immediately that the allegation is unsubstantiated or malicious, they will be resolved within one week. 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, although if there are concerns about child protection, the employer will discuss them with the LADO. In such cases, if the nature of the allegation does not require formal disciplinary action, the employer will instigate appropriate action within three working days. If a disciplinary hearing is required and can be held without further investigation, the hearing will be held within 15 working days.

Oversight and monitoring.

The LADO 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. The LADO will provide advice and guidance to the Case Manager, 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. Reviews should be conducted at fortnightly or monthly intervals, depending on the complexity of the case.

Police forces should also identify officers who will be responsible for:

- Liaising with the LADO;
- 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.

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. Wherever possible, that review will 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.

Suspension.

The possible risk of harm to children posed by an accused person will be evaluated and managed in respect of the child(ren) involved in the allegations. In some rare cases that will require the Case Manager to consider suspending the accused until the case is resolved. Suspension will not be an automatic response when an allegation is reported; all options to avoid suspension will be considered prior to taking that step. If the Case Manager is concerned about the welfare of other children in the community or the teacher's family, those concerns should be reported to the LADO, Children's Social Care or the Police as required. But suspension is highly unlikely to be justified on the basis of such concerns alone.

Suspension will be considered only in a case where there is cause to suspect a child or other children at the school is/are at risk of harm or the case is so serious that it might be grounds for dismissal. However, a person should not be suspended automatically: the Case Manager will consider carefully whether the circumstances warrant suspension from contact with children at the school or until the allegation is resolved, and may seek advice from their personnel adviser and the LADO. In cases where the school or college is made aware that the Secretary of State has made an interim prohibition order in respect of an individual at the school, immediate action will be taken to ensure that the individual does not carry out work in contravention of that order, i.e. pending the findings of the TRA investigation, the individual will not carry out any teaching work.

The Case Manager will also consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements. In many cases an investigation can be resolved quickly and without the need for suspension. If the LADO, police and children's social care services have no objections to the member of staff continuing to work during the investigation, the Case Manager will be as inventive as possible to avoid suspension. Based on assessment of risk, the following alternatives will be considered by the Case Manager before suspending a member of staff:

- Redeployment within the school so that the individual does not have direct contact with the child or children concerned;
- Providing an assistant to be present when the individual has contact with children;
- Redeploying to alternative work in the school so the individual does not have unsupervised access to children;
- Moving the child or children to classes where they will not come into contact with the member of staff, making it clear that this is not a punishment and parents have been consulted; or
- Temporarily redeploying the member of staff to another role in a different location, for example to an alternative school or work for the local authority.

These alternatives allow time for an informed decision regarding the suspension and possibly reduce the initial impact of the allegation. This will, however, depend upon the nature of the allegation. The Case Manager 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.

If immediate suspension is considered necessary, the rationale and justification for such a course of action will be agreed and recorded by both the Case Manager and the LADO. This will also include what alternatives to suspension have been considered and why they were rejected.

Where it has been deemed appropriate to suspend the person, written confirmation will be dispatched within one working day, giving as much detail as appropriate for the reasons for the suspension. It is not

acceptable for an employer to leave a person who has been suspended without any support. The person will be informed at the point of their suspension who their named contact is within the organisation and provided with their contact details.

Children's social care services or the police cannot require the Case Manager to suspend a member of staff or a volunteer, although he/she will give appropriate weight to their advice. The power to suspend is vested in the governing body of the school who are the employers of staff at the school. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by the children's social care services and/or an investigation by the police, the LADO will canvass police and children's social care services for views about whether the accused member of staff needs to be suspended from contact with children in order to inform the school about consideration of suspension. Police involvement does not make it mandatory to suspend a member of staff; this decision will be taken on a case-by-case basis having undertaken a risk assessment.

Information sharing.

In a strategy discussion or the initial evaluation of the case, the agencies involved will share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.

Where the police are involved, wherever possible the employer will ask the police to obtain consent from the individuals involved to share their statements and evidence for use in the employer disciplinary process. This will be done as the investigation proceeds and will enable the police to share relevant information without delay at the conclusion of their investigation or any court case.

Children's social care services will adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are 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 employer without delay.

Specific Actions

Following a Criminal Investigation or a Prosecution.

The police will inform the employer and LADO 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 a person has been charged. In those circumstances the LADO will discuss with the Case Manager 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. The options will depend on the circumstances of the case and the consideration will take into account the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

On conclusion of a case.

If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the LADO will discuss with the Case Manager and their personnel adviser whether the school will decide to make a referral to the DBS for consideration of whether inclusion on the barred lists is required and in the case of a member of teaching staff whether to refer the matter to the TRA to consider prohibiting the individual from teaching.

There is 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 child; or if a person otherwise poses a risk of harm to a child.

Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the Case Manager will consider how best to facilitate that. Most people benefit from some help and

support to return to work after a 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 Case Manager will also consider how the person's contact with the child or children who made the allegation can best be managed if they are still a pupil at the school.

Malicious or unsubstantiated allegations.

If an allegation is determined to be unsubstantiated or malicious, the LADO will refer the matter to the children's social care services to determine whether the child concerned is in need of services, or may have been abused by someone else. If an allegation is shown to be deliberately invented or malicious, the Chair Of Governors/Principal will consider whether any disciplinary action is appropriate against the pupil who made it; or whether the police should be asked to consider if action might be appropriate against the person responsible, even if he or she was not a pupil.

Reviewing practice.

At the conclusion of a case in which an allegation is substantiated, the LADO will review the circumstances of the case with the Case Manager to determine whether there are any improvements to be made to school procedures or practice to help prevent similar events in the future. This should include issues arising from the decision to suspend the member of staff, the duration of the suspension and whether or not suspension was justified.

A review will also help in cases where suspension has been used but the individual is subsequently reinstated. The LADO and Case Manager will consider how future investigations of a similar nature could be carried out without suspending the individual concerned.

Links to other policies.

Child Protection Policy

Safer Recruitment procedures

For further information: see the Crown Prosecution Service published guidance for the police under the Protection From Harassment Act 1997.

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