



Avenue

CENTRE FOR EDUCATION

PROCEDURE FOR DEALING WITH ALLEGATIONS OF ABUSE AGAINST TEACHERS AND OTHER STAFF

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PROCEDURES WHERE SCHOOL EMPLOYEES OR SCHOOL WORKERS FACE ALLEGATIONS OF CHILD ABUSE

It is essential that any allegation of abuse made against a teacher, another member of staff, a school worker, an agency worker, volunteer or a contractor in an education setting is dealt with fairly, quickly, and consistently, in a way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation.

This procedure complies with the statutory guidance about managing cases of allegations of abuse made against teachers and other staff that are set out in Keeping Children Safe in Education.

WHAT TO DO WHEN AN ALLEGATION IS MADE

This part of the guidance is about managing allegations that might indicate an individual 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. It should be used in respect of all cases in which it is alleged that a teacher or member of staff (including volunteers) in a school or college that provides education for children under 18 years of age 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.

The headteacher should report the concern to the Local Authority Designation Officer (LADO) the same day. If the allegation is in relation to the headteacher, then the Chair of Governors will undertake the role of Headteacher, as prescribed within the policy.

The headteacher should not investigate the allegation at this stage, they may fact find if requested to do so by the LADO, Multi Assessment Safeguarding Hub (MASH) or Human Resources (HR).

If the LADO is not available, the Headteacher should contact a member of the MASH team, the Police Child Protection Unit or Human Resources. All contact details are available in Appendix one.

Initial consideration

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 the MASH team about whether a child is in need of protection or in need of services, under section 47 of the Children Act 1989;
- consideration by the school of disciplinary action in respect of the individual

The LADO will discuss the matter with the Headteacher and where necessary obtain further details of the allegation and the circumstances in which it was made. The LADO may ask the headteacher/chair of governors to provide or obtain relevant additional information.

If the allegation is not patently false and there is cause to suspect that a child has suffered or is likely to suffer significant harm, the LADO will immediately refer to the **MASH** team to enquire whether a strategy discussion, in accordance with the statutory guidance "Working Together to Safeguard Children", needs to be convened (under section 47 of the Children Act 1989).

In those circumstances the strategy discussion should include the LADO, the Police Child Protection Officer, a HR representative and the headteacher.

If there is not cause to suspect that significant harm is an issue, but a criminal offence might have been committed, the LADO 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 and any other agencies involved with the child.

If there is not cause to suspect that significant harm is an issue, but that the allegation was prompted by inappropriate behaviour, the LADO may undertake a Joint Evaluation Meeting (JEM) or recommend that the Headteacher will seek advice from HR regarding applying the school's disciplinary procedures.

Action following initial consideration

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 which case this decision and a justification for the decision, should be recorded by the LADO, who will provide the headteacher with a confidential copy of the notes. An agreement should be reached on what information should be put in writing to the individual concerned and by whom. In such cases, if the nature of the allegation does not require formal disciplinary action, the headteacher should institute appropriate action, where required, within 3 working days. The LADO should then consider with the headteacher what action should follow both in respect of the individual and those who made the initial allegation.

In cases where the MASH team has undertaken enquiries to determine whether the child or children are in need of protection, the headteacher should take account of any relevant information obtained in the course of those enquiries when considering disciplinary action. HR and the LADO should continue to liaise with the school to monitor progress of the case and provide advice /support when required/requested.

Cases subject to police investigation

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. The review should take place no later than 4 weeks after the initial action meeting. *Police investigations take precedence over internal disciplinary procedures.* Formal disciplinary procedures will follow.

If the individual is convicted of an offence the police will inform the employer straight away so that appropriate action can be taken.

SUPPORTING THOSE INVOLVED

The pupil

The LADO's first step will be to discuss the allegation with the headteacher to confirm details of the allegation. If the parents/carers of the child concerned are not already aware of the allegation, the LADO will also discuss when, how and by whom they should be informed. 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. Whilst the case is ongoing, parents should also be kept informed about the progress of the case. Before informing parents of an outcome, advice should be sought from Human Resources regarding what information is appropriate to convey to parents whilst adhering to the Data Protection Act 2018 and the Human Rights Act 1998.

In cases where a child may have suffered significant harm, or there may be a criminal prosecution, the MASH team or the police as appropriate, should consider what support the child or children involved may need.

Parents and carers should also be made aware of the requirement to maintain confidentiality about any allegations made against teachers whilst investigations are ongoing as set out in section 141F of the Education Act 2002 (see paragraph 163).

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

The Employee

The headteacher should inform the person facing the allegation, about the allegation, but **only** after consulting the LADO. Where a multi-agency meeting is required, views of the police and the MASH team should be sought. The headteacher should not do that until those agencies have consulted jointly, and have agreed what information can be disclosed to the individual. It is imperative that the headteacher provides effective support to the employee by providing the employee with a contact name from the School (normally the investigating officer) and advises the employee contacts their union or professional association. The headteacher should also provide the employee with the detail of the employee assistance programme and/or Occupational Health, where this is provided by the school. If the employee is suspended, the school should also keep the informed about relevant developments at school.

Social contact with colleagues and friends should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence. The employee should be advised that they must not discuss the allegation with colleagues.

SUSPENSION

Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children and/or work at the school or college or whether alternative arrangements can be put in place until the allegation or concern is resolved. Suspension should not be an automatic response when an allegation is reported; all options to avoid suspension should be considered prior to taking that step.

Where the Police or MASH team are involved in the case, the decision to suspend must be a multi-agency decision.

If the decision to suspend an employee is made, the rationale and justification for the decision must be agreed and recorded. This should also include what alternatives to suspension were considered and why they were rejected.

A Suspension Risk Assessment form can be found in appendix 2. This will help inform and record your decision in relation to whether suspension is required.

In cases where, on conclusion of the case, it is decided that an employee who has been suspended can return to work, the school should consider how best to facilitate the return. Most people will benefit from some help and support to return to work after what can be a very stressful experience. The Headteacher should contact HR to discuss the management of an employee's return to work. 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 a pupil(s) at the school.

CONFIDENTIALITY

Every effort should be made to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated/considered. The Education Act 2002 introduced reporting restrictions preventing the publication of any material that may lead to the identification of a teacher 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 a criminal offence, or until the Secretary of State 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 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 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 LADO should discuss with the police and the MASH team 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.

RECORD KEEPING

Details of allegations that are found to have been malicious should be removed from personnel records. However, for all other allegations i.e. substantiated, unfounded and unsubstantiated it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, and a declaration on whether it will be included on any future references 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 (Disclosure and Barring Service) 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 retires or for a period of 10 years from the date of the allegation if that is longer.

OUTCOME OF ALLEGATIONS

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

Substantiated - Supported by proof.

Unsubstantiated - Insufficient evidence to prove or disprove. This is not the same as a false allegation and does not imply guilt or innocence.

Unfounded - Evidence was available to disprove the allegation or that information has been misinterpreted. This means there was no intent to harm or neglect.

Malicious - A deliberate act to deceive. For an allegation to be classified as malicious, it will be necessary to have evidence which proves malicious intent.

False – there is sufficient evidence to disprove the allegation

HISTORICAL ALLEGATIONS

Allegations against a teacher, staff member, agency worker or volunteer, who is no longer working at the school should be referred to the police.

RESIGNATIONS AND “SETTLEMENT AGREEMENTS”

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 cooperate with the process.

Wherever possible, the person should be given a full opportunity to answer the allegation and make representations about it. 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.

By the same token, so called "settlement 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 where the allegations indicate the person poses a risk of harm to children or deemed not suitable to work with children. Nor can such agreements override the statutory duty to make a referral to the DBS where circumstances require that.

REFERRALS

If, on conclusion of the case, the school ceases to use the individual's services, or the individual ceases to provide his/her services, the school should consult with the LADO and HR about whether a referral to the DBS and the Teacher Regulation Authority (TRA) is required.

There is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child or if a person otherwise poses a risk of harm to a child. The DBS will consider whether to bar the person from working in regulated activity, which will include work in schools and other educational establishments. Local authorities, schools, academies, FE colleges and other bodies all have a statutory duty to make reports, and to provide relevant information to the DBS. Referrals should be made as soon as possible after the resignation or removal of the member of staff involved and within one month of ceasing to use the person's services.

TIMESCALES

It is in everyone's interest to resolve cases as quickly as possible, consistent with a fair and thorough investigation. All allegations should be investigated as a priority to avoid any delay. Keeping children safe in education suggests that an initial review of the investigation should take place after four weeks and any subsequent reviews should take place ideally on a fortnightly basis (and no longer than monthly) if the investigation continues,

WHISTLEBLOWING

All staff should be made aware of the organisation's whistleblowing policy and encouraged to voice any concerns they may have about the attitude and actions of colleagues. If a member of staff believes that a reported allegation or concern is not being dealt with appropriately by their organisation, s/he should report the matter directly to the LADO.

REFERENCES

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

Please contact Human Resources if you have any questions in relation to completing a reference request.

Appendix 1

Contact details

LADO – 01582 548069

MASH TEAM – 01582 547653 **EMAIL:** MASH@luton.gov.uk

POLICE MASH TEAM – 01582 547674

HUMAN RESOURCES –01582 548190

Appendix 2

Suspension Risk Assessment

The following risk assessment should be completed whenever the suspension of an employee is being considered.

Details of the case under consideration	
Name of employee	
Date of alleged incident	

Nature of the allegation against the employee

Risk	Likelihood				Detail
	High	Medium	Low	N/A	
Is there a significant safeguarding risk to children?					
Is there a risk that the investigation may be compromised if the employee stays on site?					

Could the allegation amount to Gross Misconduct?					
Is there a risk to other staff?					
Is there a risk to school property?					
Is there a Health and Safety risk?					

What measures, short of suspension, can be put into place to enable the employee to continue to remain in the workplace? (If any) Short term/Medium term/Long term

If no please detail why measures short of suspension cannot be put into place

Document decision made regarding suspension, providing details of why the decision has been made

Suspension review dates, where appropriate:

1st suspension review date and decision:

2nd suspension review date and decision:

3rd suspension review date and decision:

4th suspension review date and decision:

Occupational Health

Is there a requirement to refer to Occupational Health? **YES/NO**

Completed by: _____ Date: _____