

Statement of Procedures for
dealing with Allegations of
Abuse against Staff



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Department
for Education

Dealing with allegations of abuse against teachers and other staff

**Statutory guidance for local authorities,
head teachers, school staff, governing
bodies and proprietors of independent
schools**

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Contents

Summary	3
About this guidance	3
What legislation does this guidance refer to?	3
Who is this guidance for?	3
Duties as an employer and employee	5
Initial considerations	5
Supporting those involved	8
Confidentiality	9
Resignations and 'compromise agreements'	10
Record keeping	11
References	11
Timescales	11
Oversight and monitoring	12
Suspension	13
Information sharing	15
Action following a criminal investigation or a prosecution	16
Action on conclusion of a case	16
Learning lessons	17
Action in respect of unfounded or malicious allegations	17
Further information	17

Summary

About this guidance

This is statutory guidance from the Department for Education. Schools, local authorities and FE colleges should have regard to it when carrying out duties relating to handling allegations against teachers and other staff.

The guidance relates to all adults working with children and young people, whether in a paid or voluntary position including those who work with children on a temporary, supply or locum basis.

What legislation does this guidance refer to?

- The Children Act 1989
- Section 175 of the Education Act 2002 (local authorities, governing bodies of maintained schools and institutions in the further education sector)
- Section 157 of the Education Act 2002 and the Education (Independent School Standards) (England) Regulations 2010
- The Children Act 2004
- Section 11 of the Children Act 2004 (other agencies)
- Sections 141F, 141G and 141H3 of the Education Act 2002

Who is this guidance for?

This guidance is for:

- All schools¹
- local authorities
- governing bodies
- the FE sector.

¹ "All schools" include Academies, Free Schools, independent schools and all types of maintained schools.

Key points

- If an allegation is made against a teacher the quick resolution of that allegation should be a clear priority to the benefit of all concerned. Any unnecessary delays should be eradicated.
- In response to an allegation all other options should be considered before suspending a member of staff: suspension should not be the default option. An individual should be suspended only if there is no reasonable alternative. If suspension is deemed appropriate, the reasons and justification should be recorded by the employer and the individual notified of the reasons.
- Allegations that are found to be malicious should be removed from personnel records; and any that are unsubstantiated, are unfounded or malicious should not be referred to in employer references.
- Pupils that are found to have made malicious allegations are likely to have breached school behaviour policies. The school or college should therefore consider whether to apply an appropriate sanction, which could include temporary or permanent exclusion (as well as referral to the police if there are grounds for believing a criminal offence may have been committed).
- All schools and FE colleges should have procedures for dealing with allegations. The procedures should make it clear that all allegations should be reported immediately, normally to the head teacher, principal or proprietor if it is an independent school. The procedures should also identify the person, often the chair of governors, to whom reports should be made in the absence of the head teacher or principal; or in cases where the head teacher or principal themselves is the subject of the allegation or concern. Procedures should also include contact details for the local authority designated officer (LADO) responsible for providing advice and monitoring cases.

Duties as an employer and employee

Employers have a duty of care to their employees. They should ensure they provide effective support for anyone facing an allegation and provide the employee with a named contact if they are suspended.

This guidance is about managing 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. 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 FE college that provides education for children under 18 years of age has:

- a. behaved in a way that has harmed a child, or may have harmed a child;
- b. possibly committed a criminal offence against or related to a child; or
- c. behaved towards a child or children in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children.

It is essential that any allegation of abuse made against a teacher or other member of staff or volunteer in a school or FE college is 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.

Initial considerations

The procedures for dealing with allegations need to be 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 should be 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. The LADO should be informed of all allegations that come to a school or FE college's attention and appear to meet the criteria so they can consult police and children's social care services as appropriate.

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

- a. **Substantiated:** there is sufficient identifiable evidence to prove the allegation;
- b. **False:** there is sufficient evidence to disprove the allegation;
- c. **Malicious:** there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false;

- d. **Unfounded:** there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances;
- e. **Unsubstantiated:** this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

In the first instance, the head teacher or principal, or chair of governors, chair of the management committee or proprietor of an independent school (the 'case manager') should immediately discuss the allegation with the LADO. The purpose of an initial discussion is for the LADO and the case manager to consider the nature, content and context of the allegation and agree a course of action. The LADO may ask the case manager to provide or obtain relevant additional information, such as previous history, whether the child or their family have made similar allegations and the individual's current contact with children. There may be situations when the case manager will want to involve the police immediately, for example if the person is deemed to be an immediate risk to children or there is evidence of a criminal offence. Where there is no such evidence, the case manager should discuss 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 which case this decision and a justification for it should be recorded by both the case manager and the LADO, and agreement reached on what information should be put in writing to the individual concerned and by whom. The case manager should 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 should inform the accused person about the allegation as soon as possible after consulting the LADO. It is extremely important that the case manager provides them with as much information as possible at that time. However, where a strategy discussion is needed, or police or children's social care services need to be involved, the case manager should not do that until those agencies have been consulted, and have agreed what information can be disclosed to the accused. Employers 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. (Please see further information on suspension below).

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 *Working Together to Safeguard Children*. 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 FE college staff are entitled to use reasonable force to control or restrain pupils in certain circumstances, including dealing with disruptive behaviour.

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 should discuss the next steps with the case manager. In those circumstances, the options open to the school or FE college depend on the nature and circumstances of the allegation and the evidence and information available. This will range from taking no further action to dismissal or a decision not to use the person's services in future. Suspension should not be the default position: an individual should 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 should discuss with the case manager how and by whom the investigation will be undertaken. In straightforward cases, the investigation should normally be undertaken by a senior member of the school or FE college's staff.

However, in other circumstances, such as lack of appropriate resource within the school or FE college, or the nature or complexity of the allegation will require an independent investigator. Many local authorities already provide for an independent investigation of allegations, often as part of the personnel services that schools and FE colleges can buy in from the authority. It is important that local authorities ensure that schools and FE colleges have access to an affordable facility for independent investigation where that is appropriate.

Supporting those involved

Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations process. Support for the individual is key to fulfilling this duty. Individuals should 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 should be advised to contact their trade union representative, if they have one, or a colleague for support. They should also be given access to welfare counselling or medical advice where this is provided by the employer.

The case manager should 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. For staff in maintained schools, that may include support via the local authority occupational health or employee welfare arrangements. Particular care needs to be 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 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.

Parents or carers of a child or children involved should 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 should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers. Parent or carers 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. 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 in confidence². Parents and carers should 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 should 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, should consider what support the child or children involved may need.

² In deciding what information to disclose, careful consideration should be given to the provisions of the Data Protection Act 1998, the law of confidence and, where relevant, the Human Rights Act 1998.

Confidentiality

It is extremely important that when an allegation is made, the school or FE college makes every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2011 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 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 commence 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, e.g. an appeal to trace a suspect, they must apply to a magistrates’ court to request that reporting restrictions be lifted).

The case manager should 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.

Action following a criminal investigation or a prosecution

The police or the Crown Prosecution Service (CPS) should 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 person has been charged. In those circumstances the LADO should 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 should inform that decision. The options will depend on the circumstances of the case and the consideration will need to 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.

Action 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 should discuss with the case manager and their personnel adviser whether to refer the case to the ISA (DBS from December 2012) for consideration of inclusion on the barred lists; or to refer to the Teaching Agency.

There is a legal requirement for employers to make a referral to the ISA 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. In such circumstances, the duty to refer an individual to the ISA arises where an employer has removed the individual from relevant work with children or the person has chosen to cease relevant work in circumstances where they would have been removed had they not done so. The ISA will consider whether to bar the person from working in regulated activity, which will include most work in schools and other educational establishments. Local authorities, schools, FE colleges and other bodies all have a statutory duty to make reports, and to provide relevant information to the ISA. 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.

Professional misconduct cases should be referred to the relevant regulatory body.

Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the case manager should consider how best to facilitate that. Most people will 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 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 at the school or FE college.

Learning lessons

At the conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the case manager to determine whether there are any improvements to be made to the school's 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. Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated. The LADO and case manager should consider how future investigations of a similar nature could be carried out without suspending the individual.

Action in respect of unfounded or malicious allegations

If an allegation is determined to be unfounded or malicious, the LADO should 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 headteacher, principal or proprietor should 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. In September 2010 the Crown Prosecution Service published guidance for the police on harassment under the Protection from Harassment Act 1997.

Further information

- The Crown Prosecution Service published [guidance for the police on harassment](#) under the Protection from Harassment Act 1997.
- Guidance on employment records in its [Employment Practices Code](#) and supplementary guidance, which provides some practical advice on employment retention.
- [Guidance on how to make a referral to the ISA.](#)



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