



**ROCHDALE**  
METROPOLITAN BOROUGH  
**COUNCIL**

## **Procedure for Managing Allegations Relating to Child Protection Matters**

### **School Based Staff**

#### **Contact:**

Margaret Moore  
Lead Child Protection Officer  
Tel: (01706) 925032

or

Gill Windsor  
Senior Schools HR Adviser  
Tel: (01706) 925184

or

Abbie Walker  
Senior Schools HR Adviser  
Tel: (01706) 925161

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# **CHILD PROTECTION PROCEDURES: ALLEGATIONS OF ABUSE BY PROFESSIONAL STAFF**

## **1 Introduction**

This guidance is written as a supplement to the Safeguarding Board Child Protection procedures. It does not replace any part of those procedures but provides guidance if a member of staff within your school is faced with an allegation of abuse.

Any allegation is likely to cause a great deal of anxiety and concern. These guidelines are designed to enable your school to be as well informed as possible.

Once a referral has been made, the Lead Child Protection Officer or Senior Schools HR Advisers will work closely with schools to guide and advise on the detailed procedures around investigation, suspension and any disciplinary action.

Further information can be found in:

- School/LA and Area Child Protection Committee (SAFEGUARDING) allegations against staff procedures
- School/LA disciplinary procedures

Information can also be found in:

- "Safeguarding Children in Education" DfES/0027/2004
- "Staff Facing an Allegation of Abuse" - Joint NEOST / Teacher Union Guidance September 2002
- Department of Education Circular 0278/2002 Child Protection: Preventing Unsuitable People from Working with Children and Young Persons in the Education Service available at: [www.teachernet.gov.uk/management/childprotection](http://www.teachernet.gov.uk/management/childprotection)

## **2 General principles**

The welfare principle (*The Welfare Of the Child is Paramount...- Children Act 1989 S1 (1)*) must be upheld in all cases. The child must be listened to and any concerns taken seriously. Headteachers/Governors also have a continuing duty of care to any member of staff who becomes the subject of an allegation. Headteachers/Governors should ensure that staff in this position are treated fairly and offered appropriate professional support.

## **3 Definitions**

The relevant legislation and guidance, such as the Children Act 1989 and 'Working Together to Safeguard Children' (2010), provide a number of the definitions that are used to describe child abuse in its different forms. These include the four categories of abuse i.e. physical, sexual, emotional and neglect; the definition of harm, health, development and ill treatment; and also significant harm.

## **4 How concerns may come to notice**

Concerns about the behaviour of a member of staff toward a pupil may be made in the form of a complaint or allegation. These terms are often used interchangeably and it is important, therefore, to consider the details of the alleged incident and not the label attached to it. Any complaint with a child protection element should be responded to as a child protection allegation in the first instance.

Concerns may be raised in a number of ways e.g.:

- Direct disclosure by the child or young person
- Indirect disclosure e.g. through written/art work or through friends
- Complaint from a parent/carer to:
  - Local Authority
  - The school
  - Children's Social Care
  - Police
- Reports by other colleagues or agencies
- Anonymously

## **5 Context**

Where it is decided that a child protection or disciplinary investigation should take place, the context in which an incident is alleged to have occurred, may provide important information for those conducting the investigation. The collation of such information however, should not delay a child protection referral being made, nor jeopardise any subsequent investigation. Advice can be sought from the LA Lead Child Protection Officer or the Senior HR Advisers in Schools Service, Personnel on these matters.

Where previous allegations have been made, serious caution must be applied. This may indicate an ongoing concern about that particular child or member of staff that needs to be addressed.

## **6 Type of allegation**

### Physical Abuse

Evidence shows that allegations of physical abuse are more common than those of a sexual nature. They often arise from incidents involving physical intervention or classroom management, when the actions of members of staff are perceived as an excessive use of force, an assault, or both.

All schools and educational establishments should ensure that they have robust recording systems to log any incidents that have resulted in the use of restraint. All schools should have physical intervention policies which should be in line with LA and DFE guidance.

## Sexual Abuse

Allegations of sexual abuse can be extremely emotive and therefore difficult to deal with. They can range from sexual assault to allegations of inappropriate touching, language or behaviour, which are perceived to have a sexual motive. All members of staff have a responsibility toward the children in their establishment and a majority of staff are placed in a position of trust. They should be aware of any safe practice guidelines that are in place and be clear as to what constitutes inappropriate contact with pupils. Clear codes of conduct should be adhered to.

## Emotional Abuse and Neglect<sup>1</sup>

Issues of emotional abuse and neglect are much more complex and are more likely to come to light via a school's complaint procedures. They do occur in schools, both in acts of commission and omission e.g. bullying comments, racist remarks (emotional abuse) or failing to address this in others (neglect). Where the alleged behaviour is deemed to cause significant harm on the health or emotional well being of the child, a child protection referral should be made.

## Examples of actions that may be interpreted as abusive

Ill-treatment is an implicit element in all forms of abuse. It provides a measure, within the context of significant harm and alleged crime, for establishing a threshold for referral. Ill-treatment by a professional might include:

## Physical Abuse

Any form of physical assault (including attempts) e.g.:

- Punching
- Kicking
- Pushing
- Smacking
- Slapping
- Shaking
- Throwing a missile at a pupil

## Sexual Abuse

- Any form of sexual assault (includes attempts)
- Abuse of a position of trust
- Possession of indecent and pseudo indecent photographs of children (includes computer images)
- Showing indecent or pornographic material to children

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<sup>1</sup> See Guidance for Safe Working Practice for the Protection of Children and Staff in Education Settings

- Inappropriate touching, language, or behaviour toward any child or pupil for sexual purposes
- Inappropriate use of text messaging, e-mail or other IT toward any child or pupil for sexual purposes

### Emotional Abuse and Neglect

- Racial comments or behaviour, or failing to address these in others
- Homophobic comments or behaviour, or failing to address these in others
- Bullying pupils, or failing to address this in others
- Persistent sarcasm
- Belittling pupils e.g. persistently placing a child in a corner or corridor
- Creating a climate of fear in the classroom
- Damaging a pupil's self esteem through persistent lack of warmth and positive regard
- Inappropriate punishment e.g. placing a child in a cupboard
- Failing to protect a child from physical harm or danger (e.g. school trips)
- Failing to ensure access to appropriate medical care or treatment (e.g. where a pupil sustains an injury)

The above examples are not exhaustive and only serve as a guide. Many of these behaviours do constitute a criminal offence some do not and some may not reach a threshold of significant harm, but they all constitute professional misconduct.

### Examples of actions that are non-abusive

- Applying restraint consistent with legislation and guidance (S.550A Education Act 1996 and Circular 10/98)
- Removing, with reasonable force, potentially dangerous items from a pupil's possession, or a pupil from a dangerous location
- Shepherding pupils (e.g. hand on back/shoulder)
- Comforting (e.g. hand on arm/shoulder/back)
- Securing attention by tapping pupil's shoulder

Staff should be aware, however, that any physical contact with pupils could be open to misinterpretation. Perceptions and language can present very different views of the same incident. Tapping a child could be interpreted as an assault, particularly where there has been earlier disagreement between the child and the member of staff concerned. Some methods of comforting a child could be viewed as an unwanted sexual advance. Other than circumstances which are in accordance with an agreed physical intervention policy, physical contact should be age appropriate, with the child's permission, and limited to the needs of the child at the time.

## Examples of actions that are both abusive and non-abusive

The following are examples of actions, albeit not overtly abusive, that could be interpreted as a member of staff 'grooming' a child for sexual purposes:

- Inviting pupils to their homes
- Giving pupils gifts
- Offering pupils lifts outside normal duties
- Singling individual pupils out for special attention
- Seeing pupils socially

The frequency, nature and degree etc of such behaviour may justify the need for further investigation under child protection or discipline procedures.

## **7 What happens when an allegation is made?**

Once an allegation has been reported, the Headteacher will need to check the basic facts to inform their initial view of the situation. This should include dates and times of the alleged incident(s), staff and pupil whereabouts and names of potential witnesses. The Headteacher may ask the alleged perpetrator if they wish to provide a statement of events in their own words however they should not ask specific questions nor conduct an interview. Even if there are apparent inconsistencies, there should be no further questioning. Subsequent action must be in accord with the agreed child protection procedures to ensure that there is no interference with evidence. Any further enquiries at this stage by the school could allow an alleged perpetrator to destroy evidence, threaten witnesses or seek an alibi therefore the alleged perpetrator must not be informed of the allegations until the course of action has been determined.

An allegation is any complaint or concern however, and by whoever, raised that might indicate that:

- a person has harmed a child or put a child at risk of harm, or
- has displayed behaviour involving or related to a child that might constitute a criminal offence, or
- has behaved in a way that raises concern about his/her suitability to work with children

If it is an allegation of reasonable force to restrain a pupil or is trivial in nature, the Headteacher or member of the Senior Leadership Team<sup>2</sup> will deal with the matter. In other cases, the Headteacher should consult the designated LA Lead Child Protection Officer or Senior School HR Advisers to consider whether the school and LA can deal with the matter or whether it needs to be referred to Children's Social Care and/or the Police for investigation.

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<sup>2</sup> Chair of Governors if you are the Headteacher

From this initial consideration there are four possible outcomes:

- a) It is alleged that the pupil has suffered, is suffering, or is likely to suffer *significant harm*<sup>3</sup>, in which case an immediate referral will be made under Safeguarding procedures.
- b) It is alleged that a criminal offence has been committed and this will be referred under Safeguarding procedures with the police possibly carrying out a criminal investigation.
- c) The allegation may represent poor or inappropriate behaviour and may be considered under the schools disciplinary procedures.
- d) The allegation is clearly and demonstrably without foundation.

What about unsuitability?

NB There could be a combination of a) b) and c)

If the outcome is either a) or b):

The referral will result in an Allegations Management Strategy Meeting taking place with the Police, Children's Social Care, and LA Officers. The Strategy Meeting is held under child protection procedures and the primary focus is on the needs of the child. The Headteacher will normally be asked to attend, unless the accusation is against the Headteacher, then the Chair of Governors will be asked to attend. The discussion will determine what actions are to be taken next. The Strategy Meeting itself is not part of any disciplinary procedures but outcomes and recommendations may be used as evidence in any future disciplinary procedures. This can only be done with the permission of Local Authority Designated Officer (LADO - Rochdale Borough Safeguarding Children's Board)

The Strategy Meeting will consider not only the children directly involved in the allegation but also any other children who could have suffered or are at risk of suffering significant harm.

If the outcome is c):

An investigation will be initiated by the school/LA under agreed disciplinary and/or capability procedures.

If the outcome is d):

The individual will be informed formally both verbally and in writing that the allegation is clearly and demonstrably without foundation. They should also be advised that no further action will be taken.

## **8 What type of investigation will be undertaken?**

There are four possible types of investigation:

- i) By Children's Social Care, under child protection procedures
- ii) By Police relating to possible criminal offences (see Appendix A)

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<sup>3</sup> Working Together to Safeguard Children 2010 (Chapter 6 and Appendix 5)



- iii) A joint investigation by Children's Social Care and Police
- iv) By the school/LA under disciplinary or capability procedures

NB. The above may involve interviews with a number of people.

In certain situations the investigations detailed above may take place simultaneously, but it is more usual that any disciplinary investigation will be held in abeyance until the external agency investigations are complete. Whilst the above investigations should always be conducted as speedily as possible, they should also be balanced against the need for a thorough and fair process, in line with natural justice.

Statements gathered in external investigations could be used in subsequent disciplinary proceedings.

## **9 What considerations are made regarding suspension?**

The provision for suspension is set out in the Education Act 2002 and accompanying regulations. Decisions regarding suspension can only be taken by the Headteacher or Governing Body. Action by the Chair of Governors in relation to the Headteacher must be notified to the full Governing Body.

A member of staff should not be automatically suspended. The Headteacher should consult with the LA Lead Child Protection Officer or Senior School HR Advisers in Schools Service, Personnel. A Strategy Meeting may also make recommendations regarding suspension; however the final decision lies solely with the Headteacher or Governing Body and should be undertaken in line with the School's Disciplinary Procedure.

Suspension is a neutral act, not a sanction, and should only occur when:

- a) a child or children may be at risk
- b) the allegations are so serious that a dismissal for gross misconduct is possible
- c) a suspension is necessary to allow the conduct of the investigation to proceed unimpeded

Where suspension is being considered the member of staff who has had an allegation made against them will be asked to attend a meeting. If possible the member of staff should be afforded the right to be accompanied by a Trade Union representative or a work colleague.

Alternatives to suspension should always be considered first, for example, transfer of duties or additional supervision.

The member of staff should be kept informed of the position regarding their suspension on a regular basis even if there are no developments to report.

## **10 Who will be notified?**

Various people will need to be informed that an allegation has been made, regardless of whether a suspension has taken place or not. Decisions will be based on who needs to know and taking into consideration, as far as possible, the issues of confidentiality.

The following individuals will be informed that an allegation has been made and the likely course of action:

- i) The child or young person concerned
- ii) The "parents/carer" child or young person concerned
- iii) Any party making an allegation
- iv) The member of staff – at the appropriate time
- v) The Chair of Governors
- vi) The LADO for Allegations Management

There may be occasions when the police will need to decide the appropriate timing for the above individuals to be notified.

If an individual has been suspended, in addition to the above, it will be necessary to inform the following:

- i) Governing Body (with minimal information to ensure that any future process is not prejudiced)
- ii) Senior teachers / other staff, so far as is necessary, as determined by the Headteacher (or Chair of Governors where appropriate)

Where, unfortunately, the matter becomes common knowledge or subject to speculation it may also become necessary to issue a brief and accurate statement for parents, children and the public. This will be determined by the appropriate individuals following consultation.

## **11 The Internal Investigatory Process**

Following discussion with the LADO if the case is deemed to be able to be dealt with under the schools/LA disciplinary or capability procedures the Headteacher/Chair of Governors should appoint an Investigating Officer to carry out a detailed investigation into the allegations made against the member of staff. The aim of this investigation is to obtain, as far as possible, a fair and balanced picture through a written record. The aim is not to prove, or disprove, an allegation. The investigation is a fact-finding exercise and is preliminary to considering the appropriateness of disciplinary action.

Undertakings of confidentiality should not be given to either a person making allegations or those being interviewed. Evidence compiled in the investigation should be made available to the parties in any subsequent disciplinary proceedings and those giving evidence in the investigation

should be so informed. It may be necessary for any person who has given evidence in the investigation to be required to attend any subsequent proceedings i.e. hearings.

Children or parents making allegations should be interviewed to record their allegations in the form of signed and dated statements. If these statements are made in the course of an internal investigation then they may be passed to the police should the matter become the subject of a police investigation. As a matter of good practice, the authors of the statements should be informed before the statements are provided to the police. In the case of statements made to the police, they can only be provided to the school as part of a disciplinary investigation with the consent of the authors.

The person undertaking the investigation should seek specialist advice as necessary, for example, from Schools Service, Personnel and should familiarise him/herself with any relevant procedures and guidelines.

The person investigating should:

- (a) define the areas to be investigated;
- (b) draw up a provisional list of those to be interviewed and a list of topics to be discussed during the investigation;
- (c) check collaborative evidence;
- (d) assess the credibility of the person making the allegation.

Interviews should be carried out as soon as possible in line with the schools disciplinary procedure. A statement should be taken for each person, signed and dated. A suitable venue and time should be selected to encourage co-operation and the opportunity to be accompanied should be offered. At the beginning of the interview, a general explanation of the purpose of the investigation should be provided.

If, at any stage during the investigation, new evidence emerges immediate contact should be made with the LADO and Schools Service Personnel. A referral may be necessary under local child protection procedures or to the police. The investigation should be held in abeyance immediately following such a referral. Consideration should also be given as to whether suspension is appropriate in such circumstances. (See section 8).

The member of staff who is the subject of an allegation should be informed of the allegation and invited to respond and to make a statement. The member of staff has the right either to respond or decline to respond.

The member of staff should be informed of his/her rights under the school's disciplinary procedures, including the right to representation.

Notes should be taken of the interview and then a copy of the notes should be sent to the member of staff inviting them to read and sign them as true record.

The member of staff should be invited to identify any persons who may have information relevant to the investigation. These names should be added to the list of those to be interviewed.

Once all the relevant persons have been interviewed and all the relevant issues have been explored, the investigation is complete. The details obtained and the statements taken should then be compiled into a report.

Consideration should again be given as to whether there are matters which should be referred under local child protection procedures or to the police and whether suspension is appropriate. If there is such a referral, further proceedings at school level should be held in abeyance.

## **12 Investigation Outcomes**

The completed report from the Investigating Officer should be referred to the Headteacher/Chair of Governors who will decide whether or not the report warrants the invoking of the disciplinary procedure. Advice may be obtained from the LA. Any disciplinary action must be taken in accordance with the schools disciplinary codes outlined in the disciplinary procedure applicable to that member of staff.

In any event, the member of staff concerned should be advised of the outcome of the investigatory procedure. In line with school procedure the member of staff may be accompanied by a trade union representative or a work colleague.

If the outcome is a referral for a disciplinary hearing, further action will be in accordance with the school's disciplinary procedures and will generally happen after the child protection enquiries have been completed.

If the member of staff has been suspended and it is not intended to proceed with any form of disciplinary action or to dismiss, the suspension should be lifted immediately by the Chair of Governors (or his/her representative) on behalf of the Governing Body. The Headteacher should meet with the member of staff to discuss their return to work.

The Headteacher/Chair of Governors should provide the opportunity for counselling through the Local Authority's Occupational Health Service. Arrangements should be arranged through School's Service, Personnel.

On the conclusion of the investigation and any related disciplinary proceedings, the child(ren) who made the allegations and their parents should be informed of the outcome of the proceedings. This should be prior to a member of staff's return to school if he/she has been suspended. In some circumstances consideration should be given to the broader disclosure of details of the outcome, together with reasons, for

example, where the issues are of general importance, have become common knowledge or have been the subject of general gossip and there is a need to provide accurate details for information.

Appropriate counselling and support should be offered to the child(ren) who made the allegations and, where appropriate, their parents by the time the member of staff returns to school. In particular, this should take into account a child's special needs where a false or malicious allegation has been made. Liaison should take place in order to ensure the most appropriate support is made available to the pupils.

### **13 Record Keeping**

Documents relating to an investigation must be retained on the employees confidential personnel file (held within Schools Service, Personnel on behalf of the school), together with a written record of the outcome of the investigation and, where disciplinary action has been taken. 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. Any future reference request for an individual who has been subject to an allegation (either proven or not proven) should be responded to objectively and factually. Details of the allegation should be disclosed to any future potential employer.

Accurate records may also 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. It will also help to prevent unnecessary reinvestigation if, as sometimes happens, an allegation re-surfaces after a period of time.

If the member of staff is dismissed, or resigns, before a disciplinary process is completed, the Headteacher/Nominated Governor should inform the member of staff about the employer's statutory duty to report the case to the Department of Education, Teacher's Misconduct Section and potential subsequent referral to the Independent Safeguarding Authority – barred list.

Where a pupil had made an allegation, a copy of the statement or the record made of it, should be kept on the section of a pupil's file, which is not open to disclosure, whilst they are at school, together with a written record of the outcome of the investigation. These records should be transferred to the secondary school in cases where allegations are made whilst the child attends primary school. If there are criminal or civil proceedings, records may be subject to disclosure and, therefore, no assurance can be given of confidentiality.

The record of an allegation against a member of staff should be retained at least until the person has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.