

Dealing with Allegations of Abuse against Staff

Guidance for Schools and Academies

August 2017

This policy and procedure has been produced by One Education’s HR and People service. The HR and People team provides management and HR support and advice to schools and academies purchasing their services under an agreed Service Agreement. For further information please contact the HR and People team via the HROne Helpline: 0844 967 1112 (local rate from landline) or HROne Helpline Email: hrpeople@oneeducation.co.uk Website: www.oneeducation.co.uk

This guidance document is recommended for adoption by all schools including community, voluntary controlled, community special, maintained nursery, foundation, foundation special, voluntary aided , academies and free schools. References in this document to schools include a reference to academies and free schools and references in this document to the Headteacher include a reference to an academy or free school Principal. References to the Governing Body include an academy Trust Board.

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Under the public sector equality duty, all schools/academies must have due regard to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited by the Equality Act 2010; to advance equality of opportunity between those who share a relevant protected characteristic and those who do not share it and to foster good relations across all protected characteristics. This means schools/academies must take into account equality considerations when policies are being developed, adopted and implemented. The HR and People team regularly reviews all policies and procedures which are recommended to schools/academies to ensure compliance with education and employment legislation including the Equality Act 2010. Consultation with schools/academies is an important part of this review process. Headteachers, Principals and Governing Bodies are asked to contact the HR and People team via the HROne Helpline if they believe there are any negative equality impacts in their school/academy in relation to the application of this policy/procedure.

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1. Introduction

- 1.1 This guidance is aimed at all Schools and Academies and takes into account the provisions of the Department for Education (DfE) statutory advice for schools (May 2016) commencing 5th September 2016 on Keeping Children Safe in Education (September 2016) and also the framework for managing cases of allegations of abuse against people who work with children, set out in the Working Together to Safeguard Children - a guide to inter-agency working to safeguard and promote the welfare of children March 2015.
- 1.2 This guidance will be used alongside the School's Safeguarding Policy and procedures and the Disciplinary and Dismissal Policy.

2. Scope

- 2.1 This guidance applies to all employees in school whose employment (whether paid or unpaid) is under the purview of the governing body including the headteacher and volunteers. It does not apply to self-employed staff, contractors, external consultants, agency staff or governors.
- 2.2 It provides guidance and information for staff, parents, carers and pupils regarding the investigation of allegations of abuse and will be used in any case where it is suspected or alleged that a member of staff or a volunteer at the school has:-
 - Behaved in such 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 is unsuitable to work with children.
- 2.3 It is extremely important that any allegation of abuse against a member of staff or volunteer in the school is dealt with thoroughly and efficiently maintaining the highest level of protection for the child whilst also providing support to the person who is the subject of the allegation.

3. Legislation/Framework

- 3.1 This guidance takes account of the following legislation:-
 - 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)

4. Procedure

4.1 Reporting an Allegation

- 4.1.1 All concerns of poor practice or possible child abuse by staff must be reported immediately to the Head teacher. Complaints regarding the Headteacher should be reported to the Chair of Governors. All allegations against staff should be investigation in line with the School Disciplinary and Dismissal Policy.
- 4.1.2 When a concern is reported the Headteacher (or other relevant senior leadership team member) should immediately contact the Designated Officer (DO) formerly known as the Local Authority Designated Officer (DO) who has a statutory duty to ensure all allegations about safeguarding are handled properly and expeditiously. The Headteacher will also seek advice from the school's HR provider.
- 4.1.3 Where appropriate, a strategy meeting will be arranged by the DO to determine whether the allegation should be investigated by the police or by some other agency or by the school under its disciplinary procedures. The strategy meeting may be attended by the relevant Local Authority officers, the police and the Headteacher (or a designated governor if the allegation is against the Headteacher). An HR representative or other professional adviser may also attend the meeting with or on behalf of the school.
- 4.1.4 In the strategy meeting 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.
- 4.1.5 A full disciplinary investigation should not be started by the school until recommendations have been made with regard to next steps at or following the strategy meeting. To do so could potentially compromise investigations by the police or the Local Authority.

4.2 Investigation

- 4.2.1 If after initial discussions with the DO, or after an initial strategy meeting, or at some later stage it is decided that it is appropriate for the school to proceed with the matter under the school's disciplinary procedures, the school should take account of any recommendations from the strategy meeting and should liaise with the DO as appropriate.

4.3 Supporting Those Involved

The Employee

- 4.3.1 The Governing Body as the employer has a duty of care to its employees and will do everything within its power to manage and minimise the stress of any allegation and the disciplinary process. The person who is subject to investigation will be informed as soon as possible after an allegation has been made. The employee will then be advised on what the next course of action will be.
- 4.3.2 However, if the police or social services are to be involved, they will be contacted before the employee and will advise as to what information may be disclosed to the person under investigation.
- 4.3.3 A named representative will keep the employee informed of the progress of the case and any other work-related issues. The employee may need additional support and the school will consider what might be appropriate to best accommodate this support (e.g. access to welfare counselling or medical advice).

The Person(s) who makes the allegation and their parents/carers

- 4.3.4 Parents and carers will be notified if their child makes or is involved in an allegation against staff if they are not already aware. However, if the police or social services are to be involved they will be contacted first and will advise as to what information may or may not be disclosed to the parents.
- 4.3.5 Parents and carers will, where possible, be advised of progress during an investigation and, where there is no criminal prosecution, will be notified of an outcome. Details of any disciplinary investigation or hearing are however confidential (see also paragraph 6 below). Where Social Services and/or the police are involved they may provide the school with advice on additional support the child may need.
- 4.3.6 Parents and carers should also be made aware of the requirement to maintain confidentiality about any allegations made against teacher whilst investigations are going as set out in section 141F of the Education Act 2002 (paragraph 163). If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice.

5. Suspension

- 5.1 No member of staff will be suspended without serious consideration being given to the circumstances and suspension will not be an automatic response to an allegation being made. Depending on the nature of the case, it may be possible for alternative arrangements to be made so that the individual can continue

working. Only the governing body or the Headteacher (by delegated power) is authorised to suspend an employee of the school. The Headteacher will seek HR advice before carrying out a suspension. Where suspension is considered to be appropriate the employee will receive written confirmation of this within one working day and will be informed of the reason for the suspension. This will be reviewed in accordance with the school's Disciplinary and Dismissal policy.

6. Confidentiality

- 6.1 Every effort will be made to guard the privacy of all parties during and after any investigation into an allegation. It is in everyone's best interest to maintain this confidentiality to ensure a fair investigation with minimum impact for all parties. Any breach of confidentiality will be taken seriously and may warrant its own investigation. It is a criminal offence to publish information that could lead to the identification of a member of staff who is subject to an allegation.

7. Resignations and 'Settlement Agreements'

- 7.1 If an employee resigns when an allegation is made against them or during an investigation, the investigation will continue until an outcome has been reached, with or without the employee's cooperation. The employee will be given full opportunity to answer the allegation(s). Settlement Agreements **will not** be used in situations which are relevant to these procedures (point 169, Keeping Children Safe in Education).

8. Record Keeping

- 8.1 If, after investigation an allegation is found to be malicious, it will be removed from the record of the employee concerned. For all other allegations, records of investigations and outcomes will be kept securely in accordance with data protection regulations. The records will be kept, including for people who leave the organisation at least until the person reaches normal retirement age or for 10 years if that is longer, from the date of the allegation. Details of any allegation made by a pupil will be kept in the confidential section of their record.

9. References

- 9.1 Cases in which an allegation was proven to be unfounded or malicious should not be included in employer references. A history of repeated concerns or allegations which have all been found to be unfounded or malicious etc. should also not be included in any reference. The Headteacher may seek HR advice prior to the completion of any employment reference.

10. Action Following a Criminal Investigation or Prosecution

- 10.1 The police or the Crown Prosecution Service (CPS) should inform the school and DO straightaway when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to prosecute after the person has been charged.
- 10.2 In those circumstances the DO should discuss with the Headteacher whether any further action, including disciplinary action, is appropriate and if so how to proceed. The school will also seek advice from their HR provider in these circumstances.

11. Action on Conclusion of a Case

- 11.1 Where an allegation(s) against an employee is/are substantiated it may be necessary to make a referral to the appropriate Statutory Regulatory Authority.
- 11.2 Schools are legally required to refer cases to the Disclosure and Barring Service (DBS) in cases where an employee has been dismissed on the grounds of misconduct which has harmed, or placed at risk of harm, a child or a vulnerable adult.
- 11.3 Where an employee is dismissed in the above circumstances **or** would have been dismissed had he/she not resigned, retired, been made redundant or transferred to a post not involving a regulated activity, and where the circumstances of the case meet the relevant thresholds, the details of the case **must** be referred to the DBS.
- 11.4 **Teachers** who are dismissed on the grounds of misconduct relating to:-
- unacceptable professional conduct;
 - conduct that may bring the profession into disrepute; or
 - a conviction, at any time, of a relevant criminal offence;

must be referred to the National College for Teaching and Leadership (NCTL) which will consider whether a prohibition order is appropriate. Referral **also** applies where a teacher would have been dismissed (on the basis of evidence gathered in the investigation) **had they not** resigned, retired, or otherwise left their post.

- 11.5 The school's HR provider will support the Headteacher (or Chair of Governors in the case of a Headteacher) with the above referrals.

12. Action in the Case of a False or Malicious Allegations

- 12.1 Where an allegation is proven to be false, the Headteacher and Chair of Governors may refer to social services to determine whether the child is in need

of support or has been abused by someone else. The school's behaviour policy sets out the disciplinary action that may be taken against pupils who are found to have made malicious accusations against school staff. The Headteacher may consult the school governors when considering action to take. If the claim has been made by a person who is not a pupil, the school will pass the information to the police who may take further action against that person.

13. Follow up Action

- 13.1 No matter what the outcome is of an allegation of abuse against a member of staff, the school will review the case to see if there are any improvements that can be made in its practice or policy that may help it deal with cases in the future.

14. Further Information

- 14.1 For further information please see:-

- Department of Education statutory guidance - Keeping children safe in education (September 2016) Part four: Allegations of abuse made against teachers and other staff.
- Crown Prosecution Service published guidance for the police under the Protection from Harassment Act 1997.

15. Reviews

The governing Body will ensure that there is a review this guidance at least every two years or where there is a change in legislation of regulations.