

# **Dealing with Allegations of Abuse Against People who work with Children – Guidance for Schools and Academies**

June 2022

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 policy is recommended for adoption by all maintained schools including community, voluntary controlled, community special, maintained nursery, foundation, foundation special and voluntary aided schools. It is also recommended for adoption by academies and free schools (modified as appropriate and taking into account the particular circumstances of the relevant academy or free school). Some school or academy specific provisions are included. This policy should therefore be adapted as necessary and inappropriate provisions deleted. The HR and People team can assist in adapting this policy to fully reflect a school's status including their academy or multi academy trust (MAT) status.

References in this policy to schools include a reference to academies and free schools unless otherwise stated. References in this policy to the headteacher include a reference to an academy or free school principal and references to the governing body include references to governing boards and/or trust boards as applicable.

<b>Document Control</b>	
Title	Dealing with Allegations of abuse against all employees, contractors, supply staff and volunteers including governors.
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Supersedes	Dealing with Allegations of Abuse against Staff, 2017
Amendments	To take into account advice issued by the Department for Education (DfE) – Keeping Children Safe in Education (September 2020) and Working Together to Safeguard Children (July 2018)
Related Policies/Guidance	<ul style="list-style-type: none"> <li>• School's Safeguarding Policy and Procedures and Disciplinary and Dismissal Policy</li> <li>• Keeping Children Safe in Education (September 2020)</li> <li>• Working Together to Safeguard Children (July 2018)</li> <li>• The Children Act 1989</li> <li>• Section 175 of the Education Act 2002 (local authorities, governing bodies of maintained schools and institutions in the further education sector)</li> <li>• Section 157 of the Education Act 2002 and the Education (Independent School Standards) (England) Regulations 2010</li> <li>• The Children Act 2004</li> <li>• Section 11 of the Children Act 2004 (other agencies)</li> <li>• Data Protection Act 2018, General Data Protection regulation (GDPR)</li> </ul>
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**Equality Statement:** - Under the public sector equality duty (PSED), 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 One Education 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. Schools should also contact HR and People team if they need to access this policy in a different format.

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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, Keeping Children Safe in Education (KCSIE) (September 2020-Part four) and Working Together to Safeguard Children - a guide to inter-agency working to safeguard and promote the welfare of children July 2018.
- 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, supply staff, contractors, external consultants and volunteers including 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 anyone working in the school 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;
  - Behaved towards a child or children in a way that indicates he or she may 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.
- 2.3 It is extremely important that any allegation of abuse made against a person working 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.
- 2.4 Allegations against a person who is no longer employed at the school, should be referred to the police. As a former employer there is an obligation that the school ensure allegations are dealt with appropriately and liaise with relevant parties.

## 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)
  - Data Protection Act 2018, General Data Protection regulation (GDPR)

## 4. PROCEDURE

### 4.1 Initial Response and Reporting

- 4.1.1 All concerns of poor practice or possible child abuse by a person working in school must be reported immediately to the Head teacher or the Designated Safeguarding Lead (DSL). Complaints regarding the Headteacher should be reported to the Chair of Governors.
- 4.1.2 The person/s who has witnessed the incident or has had an allegation disclosed to them, will make an immediate record which should include as much detail as possible; for example, the time, date, place of incident, persons present, what was witnessed, what was said etc. The account should be signed and dated.
- 4.1.3 The person subject to the allegation will not be approached at this stage unless it is necessary to address the immediate safety of children.
- 4.1.4 Formal interviews or further questioning of witnesses should not take place until Local Authority Designated Officer (DO) formally known as the Local Authority Designated Officer (LADO) advice has been sought. This is important if police involvement is necessary, further questioning may have a negative impact on the criminal case.

### 4.2 Referral to the Designated Officer

- 4.2.1 When a concern is reported and the threshold set out at 2.2 above is potentially met, the Headteacher (or other relevant senior leadership team member) must make a referral to the Local Authorities Designated Officer (DO) **immediately and within 24 hours**. The DO 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.
- 4.2.2 The DO will liaise with the Headteacher or senior leader to consider the nature, content and context of the allegation and agree a course of action. The DO may require further relevant information such as employment history and whether similar or previous allegations have been made against the individual.
- 4.2.3 The DO will determine whether the matter warrants immediate police involvement if the person is deemed to be an immediate risk to children or there is evidence of a possible criminal offence. The DO will discuss with the school leader about removing the person from school and notify that a strategy meeting will be called to discuss the allegation(s) and next steps with relevant parties.
- 4.2.4 The DO will invite relevant Local Authority officers, the police and the Headteacher (or a designated governor if the allegation is against the Headteacher) to the strategy meeting. The schools HR representative or other professional adviser may also attend the meeting with or on behalf of the school.
- 4.2.5 Should the individual be employed by an outside agency working at the school the DO will invite their employer and make recommendations regarding their internal processes and any action which they must take with regards to the individual's employment.
- 4.2.6 In the strategy meeting, the agencies involved will share all relevant information they hold about the person who is the subject of the allegation, and about the alleged victim. The DO will agree the next steps with regards to the allegations, i.e. police investigation, Local Authority intervention or school action such as a recommendation for suspension of the individual.
- 4.2.7 A full disciplinary investigation should not be started by the school until recommendations have been made by the DO and other parties at the strategy meeting. To do so could potentially compromise investigations by the police or the Local Authority.
- 4.2.8 Alternatively, the DO may advise the school leader that the matter does not require a strategy meeting, police intervention or Local Authority action and that it is appropriate for the school to

commence an internal investigation in accordance with the school's Disciplinary and Dismissal policy. The outcome of the investigation may lead to disciplinary action or that no further action is necessary. Agreement will be reached by both the DO and school leader with regards to what information will be provided to the individual concerned and by whom.

- 4.2.9 Disciplinary procedures can only be instigated for employees of the school. Where the person is an agency worker or contractor, the school should liaise with their employer as appropriate, following advice from the DO and HR. The employer will follow advice from the DO or police as necessary.

### **4.3 School Investigation**

- 4.3.1 If after initial discussions with the DO, or after an initial strategy meeting 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 DO and/or strategy meeting and should liaise with the DO as appropriate.
- 4.3.2 If the Headteacher is permitted to investigate the allegations they should determine whether the individual should remain in their post whilst the investigation is taking place. Depending on the allegations the headteacher could arrange for the individual to be relocated with a risk assessment in place.
- 4.3.3 If the DO advises that the matter should be referred for a strategy meeting or police investigation the Headteacher should determine whether it is appropriate for the individual to remain in school. Whilst suspension should not be the default position as a result of an allegation, the Headteacher must determine whether there is the potential risk of harm to a child or children should the individual remain at the school. As stated in 4.3.2, the Headteacher must assess whether the individual can be moved to an alternative position with a risk assessment in place as a reasonable alternative to suspension.
- 4.3.4 If it is determined that suspension is the appropriate action the individual will be notified in writing of the allegations which are to be investigated. The Headteacher will liaise with the school's HR Adviser to agree the details of the allegations to be set out in the suspension letter taking into consideration any Local Authority or criminal investigations.
- 4.3.5 The investigation should be carried out in accordance with the School's Disciplinary and Dismissal Policy and Procedure.

### **4.4 Supporting Those Involved**

#### **The Employee**

- 4.4.1 As the employer, the Governing Body/Board of Trustees has a duty of care to its employees and will aim to manage and minimise the stress caused by the allegation and any subsequent disciplinary process.
- 4.4.2 The person who is subject to investigation will be informed as soon as possible after an allegation has been made and the likely course of action, subject to guidance from the DO and the police. If the police or children services are to be involved, they will be contacted before the employee to seek advice as to what information may be disclosed to the person under investigation.
- 4.4.3 A named representative will keep the employee informed of the progress of the case and any other work-related issues taking into consideration their well-being. 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 or Carers

- 4.4.4 Parents and carers will be notified if their child makes or is involved in an allegation against an employee, contractor or volunteer if they are not already aware of it. However, if the police or children's services are involved in the case, advice will be sought from those agencies with regards to what information can be disclosed to the parents and carers.
- 4.4.5 Parents and carers will, where possible, be advised of the case 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 and cannot normally be disclosed (see also paragraph 6 below). As stated in KCSIE point 230 *'In deciding what to disclose, careful consideration should be given to the provisions of the Data Protection Act 2018, the law of confidence and, where relevant, the Human Rights Act 1998'*.
- 4.4.6 Where Children's Services and/or the police are involved they may provide the school with advice on additional support the child may need as a result of the allegations.
- 4.4.7 Parents and carers should also be made aware of the requirement to maintain confidentiality about any allegations made against a teacher whilst investigations are ongoing as set out in section 141F of the Education Act 2002. If parents/carers wish to apply to the court to have reporting restrictions removed, they should be informed they must 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 (see paragraph 4.3 above).
- 5.2 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.
- 5.3 The Headteacher will seek HR advice before carrying out a suspension. Where suspension is 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.
- 6.2 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 as set out in KCSIE point 237.

## 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 and school procedures. 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 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 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 Teaching Regulation Agency (TRA) 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 ALLEGATION**

- 12.1 Where an allegation is made by a child and is proven to be false, the Headteacher and Chair of Governors may refer to Children's Services to determine whether the child requires support. 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 (KCSIE), September 2020 Part four: Allegations of abuse made against teachers and other staff.