



33 – Allegations of Abuse against Teachers and other Staff

Guidance for Schools, Academies, Educational Establishments & Support Services Managers

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Allegations of Abuse against Teachers and other Staff

1. Definitions

'Safeguarding' – process of protecting children from maltreatment, preventing impairment of their health and development, ensuring they are growing up in circumstances consistent with the provision of safe and effective care and taking action to enable all children to have the best outcomes.

'Allegation' – information which comes to light, which suggests an employee, volunteer or contractor may have hurt or harmed a child, possibly committed a criminal offence against a child or has behaved in such a way towards a child or young person that indicates they would pose a risk of harm to children if they continue their current employment or in any capacity which involves working with children.

'Headteacher' – refers to Headteacher/Principal who is the person responsible in schools, but the guidance applies to the Chair of Governors/Trustees acting where an allegation is made against the Headteacher. It also refers to the Senior Manager responsible in relation to allegations against centrally employed members of staff or those employed in educational establishments other than schools.

'Chair of Governors' – refers to Chair of Board, Governors, Trustees/Chair of Management Committee, CEO of an Academy Trust, etc.

'Member of staff' – includes any adult, paid or voluntary, who is centrally employed or who works in a school or other educational establishment.

'LADO' – Local Authority Designated Officer. The person responsible for providing advice and monitoring cases of alleged abuse against a child by an adult in a position of trust.

The terms **'child/ren'** and **'young person'** are interchangeable and refer to children who have not yet reached their 18th birthday.

'Working days' – refer to the days during which the school or educational establishment is open, including training days.

'Disclosure and Barring Service (DBS)' – a non-departmental public body set up to administer the vetting and barring scheme and criminal records checks.

Teaching Regulation Agency (TRA) – is responsible for ensuring that in cases of serious professional misconduct, teachers are barred from teaching.

'Regulated Activity' –

1. Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children.
2. Work for a limited range of establishments ('specified places'), with opportunity for contact, for example schools, children's homes, childcare premises (but not work by supervised volunteers).
Work under (1) or (2) is Regulated Activity only if done regularly. Regular means carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period (or in some cases, overnight).
3. Relevant personal care, for example washing or dressing; or health care by or supervised by a professional, even if done once.
4. Registered childminding; and foster-carers.

Dealing with Allegations of Abuse against Teachers and other Staff

2. Introduction

This guidance applies to all 'staff members' whose work brings them into contact with children in an education setting. It therefore applies to all teachers (including supply teachers) and support staff, volunteers and other adults, whether paid or working in a voluntary capacity on or off school premises and sites.

In the case of an allegation against the Headteacher, the Chair of Governors (or in their absence the Vice-Chair) is responsible for ensuring the process is followed.

This guidance relates to the action the Headteacher (or Chair of Governors in the case of an allegation against the Headteacher) must follow where an allegation has been made against a member of staff. The Headteacher **must not** delegate this responsibility. This guidance does not apply to Children's Social Care, which has separate procedures.

This guidance relates to 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)
- the Education (Independent School Standards) Regulations 2014 and the Education (Non-Maintained Special Schools) (England) Regulations 2011
- Section 11 of the Children Act 2004 (other agencies)
- Sections 141F, 141G and 141H of the Education Act 2002 as amended by Education Act 2011.

This guidance is based on the DfE guidance on allegations of abuse against teachers and other staff in Part 4 of 'Keeping Children Safe in Education' and takes account of Worcestershire Safeguarding Children Board (WSCB) local procedures.

The Worcestershire Safeguarding Children Board also hold regular seminars to advise on the management of allegations against people who work with children. Those responsible for managing such allegations are strongly recommended to attend one or other of these sessions. For further information go to www.safeguardingworcestershire.org.uk/.

All members of staff who work unsupervised with children in regulated activity are required to complete an Enhanced Disclosure and Barring Service check to ensure suitability for working with children. It is an offence to employ anybody in regulated activity who has been barred from working with children by the Disclosure and Barring Service (DBS).

All staff and volunteers working in regulated activity must be given appropriate safeguarding training, which includes safer working practice and management of allegations, updated every three years.

All new members of staff and volunteers should be given guidance and training on safeguarding children, safer working practice and allegations of abuse as part of their induction.

All staff dealing with children requiring additional care (Care Plans, etc.) must have appropriate information and training.

3. What is an Allegation?

This guidance should be used in respect of all cases in which it is alleged that a member of staff in a school or other educational establishment that provides education for children under 18 has:

- behaved in a way that has harmed, 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 would pose a risk of harm if they work regularly or closely with children;
- behaved or may have behaved in a way that indicates they may not be suitable to work with children.

When an allegation is made, it is important that you follow the procedures contained in this document immediately and **do not commence any internal investigation** until agreement is given to proceed.

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 at all or may do so without warranting consideration of a Police investigation or enquiries by the Local Authority Directorate of Children's Social Care. In these cases internal arrangements should be followed to resolve cases quickly and without delay.

It is important to ensure that even apparently less serious allegations are seen to be followed up, and that they are examined objectively by someone independent of the organisation, i.e. the Local Authority Designated Officer (LADO). **Maintained, Academy, Independent and Free schools all have a statutory duty to report allegations to the Local Authority.**

It is essential that any allegation of abuse made against a teacher, other member of staff or a volunteer in an education setting is dealt with fairly, quickly and consistently, in a manner which provides effective protection for the child and also supports the person who is the subject of the allegation.

Headteachers may also seek the advice of the LADO where an employee's behaviour is a matter of concern to his/her manager because it compromises or may be seen to compromise the reputation and ability of the organisation to safeguard children. Some examples of this may be where an individual has:

- contravened or continued to contravene any safe practice guidance given by his/her organisation or regulatory body
- exploited or abused a position of power
- acted in an irresponsible manner which any reasonable person would find alarming or questionable given the nature of work undertaken
- demonstrated failure to understand or appreciate how his or her own actions or those of others could adversely impact on the safety and well-being of a child
- demonstrated an inability to make sound professional judgements which safeguard the welfare of children
- failed to follow adequately policy or procedures relating to safeguarding and promoting the welfare of children
- failed to understand or recognise the need for clear personal and professional boundaries in his/her work
- behaved in a way in his/her personal life which could put children at risk of harm
- become the subject of criminal proceedings relating to a child

- become subject to enquiries under local child protection procedures
- behaved in a way which seriously undermines the trust and confidence placed in him/her by the employer
- been involved in an incident outside of school which did not involve children but could have an impact on their suitability to work with children, e.g. domestic violence at home.

When an allegation has been made consideration will be given to whether:

- any action is needed;
- a Police investigation of a possible criminal offence is required;
- enquiries and assessment by Children's Social Care are required about whether a child is in need of protection or in need of services;
- disciplinary action or other sanction may be necessary.

In some circumstances, following the outcome of an investigation/Police action, it may be necessary to report the member of staff to the Disclosure and Barring Service (DBS) for consideration of inclusion on their barred lists and for referral to the Teaching Regulation Agency.

4. Safeguarding Children

Educational establishments play an important part in the prevention and detection of abuse and neglect, through their own policies and procedures for safeguarding children, creating and maintaining a safe environment, and through the curriculum. They promote resilience in children by helping them to stay safe from harm and encouraging them to talk to someone if they have worries or concerns. Staff members play a crucial role in this process in noticing indications of abuse or neglect and in reporting concerns to Children's Social Care but in rare circumstances staff in educational establishments have been found to be responsible for child abuse. Given their daily contact with children in a variety of situations, staff are also vulnerable to accusations of abuse, leading to allegations from children, parents or other staff members.

These allegations must be taken seriously, and while they may be found to be false, malicious or unsubstantiated, they may also be well founded. Children or parents may make a direct referral to the Police or Children's Social Care, who will discuss the allegations with the LADO.

5. Abuse of Position of Trust

All adults working with children and young people are in a position of trust in relation to the young people in their care.

Where a person aged 18 or over is in a specified position of trust with a child under 18 it is an offence for that person to engage in sexual activity with or in the presence of that child or to cause or insight that child to engage in or watch sexual activity.

For further information see guidance on the Sexual Offences Act 2003 at www.legislation.gov.uk.

6. Restrictive Physical Intervention (RPI)

Where an allegation is made involving the use of physical intervention, consideration should be given to whether the action taken was necessary and proportionate.

Where an incident relates to the use of reasonable force to restrain a child, it will be appropriate for the Headteacher to deal with this in accordance with school/establishment procedures, following guidance in the 'Use of Reasonable Force' (DfE July 2013).

All such incidents should be reported, recorded and discussed with parents as soon as possible in line with the school policy.

If an allegation of assault is made following a restraint, this must be seen as a child protection matter, discussed with the LADO in accordance with these procedures.

If in doubt, the Headteacher should consult with the LADO to establish whether the use of force was necessary and proportionate.

7. Procedure for Managing Allegations

Allegations may be made directly to the Headteacher by children, parents, members of staff or other persons. In some instances, allegations are made directly to the Police, who will inform Children's Social Care if they believe the allegation meets the threshold for referral. The LADO will contact the Headteacher to discuss the allegation and advise on the action needed.

All staff have a responsibility to report a member of staff they believe is 'harming' or using unacceptable behaviour towards a child, to the Headteacher. Where a child or adult reports concerns to a member of staff, they must be listened to and taken seriously. The member of staff **must not attempt to investigate the allegation** but inform the Headteacher and provide a full written and dated account of what has been reported.

The Headteacher should inform the LADO of all allegations **on the same day** or next working day. Church Schools should also inform their Diocesan Boards of allegations. Schools or settings registered with Ofsted, should also inform Ofsted.

The Headteacher must not take any action, commence an investigation, or inform the member of staff of the allegation before consulting with the LADO, but may make basic enquiries to determine whether the allegation could possibly have occurred or to establish the facts of the allegation, if these were unclear, e.g.

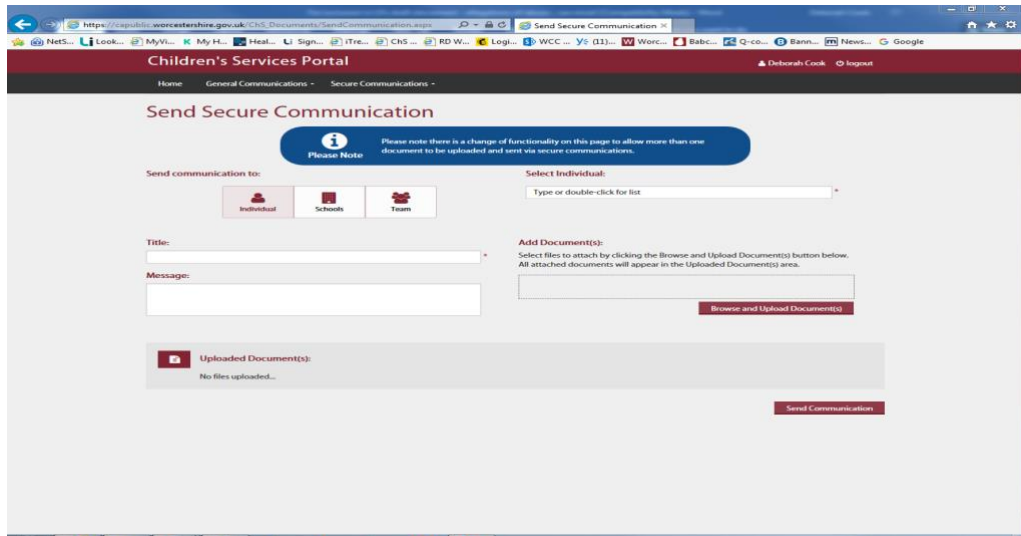
- was the child/staff member in school on that day?
- could the child have had contact with the staff member?
- could there have been any witnesses?

In the first instance, the Headteacher should immediately discuss the allegation with the LADO. The purpose of an initial discussion is for the LADO and the Headteacher to consider the nature, content and context of the allegation and agree a course of action.

Any referral to the LADO must also be documented using the LADO referral form (**see Appendix 4**). This form should be completed and submitted to the LADO team using the secure email address contained in the form or can be sent via the Children's Services Portal as a secure communication.

To send via the Portal log on to: https://capublic.worcestershire.gov.uk/ChS_Theme/ and sign in to your account.

Click on drop-down menu 'Secure Communications'
Select 'Send Secure Communication'
Send Communication to: Team
Select Team: LADO Referral Form
Complete 'Title', 'Message' and 'Add Document(s)': please note the Message box is limited to three lines of text
Click 'Send Communication'.



If you have not yet registered for this service, you can contact 01905 766766 or email chs.business.process@worcestershire.gov.uk to request an account.

The LADO may ask the Headteacher to provide or obtain any additional information which may be relevant such as previous history, whether the child or their family have made similar allegations and the individual's current contact with children. This 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 Headteacher and the LADO, and agreement reached as to what information should be shared with the individual concerned and by whom. The Headteacher should then consider with the LADO what action should follow in respect of the individual and those who made the initial allegation.

The Headteacher should inform the staff member about the allegation as soon as possible **after** consulting the LADO. He or she should provide them with as much information as possible at the time. However, where a Position of Trust Meeting is needed, or Police or Children's Social Care need to be involved, the senior manager **should not** do that until those agencies have been consulted and have agreed what information can be disclosed to the person. Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the school until the allegation or concern is resolved (see section on Suspension). 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 Position of Trust Meeting should be convened in accordance with 'Keeping Children Safe in Education'.

Where it is clear that an investigation by the Police or Children's Social Care is unnecessary, or the Position of Trust Meeting or initial evaluation decides that is the case, the LADO should discuss the next steps with the Headteacher. In those circumstances the options open to the school depend on the nature and circumstances of the allegation and the evidence and information available, and will range from taking no further action to disciplinary action, up to and including summary dismissal or a decision not to use the person's services in future.

8. Referral to a Position of Trust Meeting

When an allegation has been referred to and accepted by the Children's Social Care Family Front Door Service (previously known as Access Centre) a Position of Trust Meeting will be convened as soon as practicable.

The purpose of the Position of Trust Meeting is to consider the allegation or concern and decide on what action, if any, needs to follow. It is Chaired by the LADO.

The member of staff who is the subject of the allegation will not be invited to the meeting. However, the member of staff should normally be informed of the outcome and whether the matter will be investigated, at a time and in a form agreed at the meeting and as soon as possible after the meeting, unless prior knowledge may prejudice a police investigation. A leaflet entitled '*What happens if an allegation of abuse is made against you*' is available on ConnectEd for the Headteacher to give to the member of staff, to ensure they are aware of the process that will be followed.

Attendance at the Position of Trust Meeting

May include the following as appropriate:

- Local Authority Designated Officer (Chair).
- Children's Social Care Team Manager or Social Worker.
- Police Public Protection Unit.
- Senior Adviser for Safeguarding Children in Education.
- Headteacher (or Chair of Governors where allegation is against the Headteacher).
- Church Diocesan Officer, as appropriate.
- HR Consultant, when the allegation is against the Headteacher or is so serious that it is likely to lead to a formal investigation and/or dismissal.
- Representative of other Local Authorities where relevant, e.g. if the child is residing outside their 'home' authority in a residential school, foster placement, etc. or the staff member works in more than one authority or lives and works in different authorities.
- Any other relevant professional who has information or professional expertise, which could assist the meeting, e.g. health professional.

Purpose of the Position of Trust Meeting

- Consider the nature, content and context of the allegation and whether there have been any previous allegations.
- Consider the risk to the child/other children within or outside the workplace.
- Determine the need for a child protection enquiry and/or criminal investigation (joint or single agency).
- Establish a clear action plan with timescales.
- Decide who to inform and when.
- Make recommendations that suspension, disciplinary, competency, regulatory or complaint procedures be undertaken.
- Consider the need to inform other relevant parties and the need to prepare agreed media statements.
- Agree criteria for a re-referral if new evidence comes to light in any 'internal' procedure which suggests a further Position of Trust Meeting is needed.

Outcome of the Position of Trust Meeting

Following consideration of the allegation and other relevant information, the following courses of action may be agreed:

- no further action;
- a Police investigation of a possible criminal offence;
- enquiries and assessment by Children's Social Care about whether a child is in need of protection or in need of services;
- an internal Local Authority/school investigation which may lead to management guidance/training and/or disciplinary procedures.

9. External Investigations

Where the Police or Social Care are investigating an allegation, a LA/school internal investigation is normally held in abeyance until the outcome is known. However, in consultation with the Police an internal investigation may be conducted in parallel.

Investigations should be conducted as quickly as possible and the member of staff given regular progress updates.

10. Managing an Internal Investigation / the Disciplinary Process

Following completion of an external investigation or if the matter is not pursued by the Police or Children's Social Care an allegation against a member of staff may require an internal investigation to determine whether disciplinary action is needed. Disciplinary action should not be taken until the alleged misconduct has been properly investigated.

An investigation will normally involve an interview with the member of staff concerned who may be accompanied by a colleague or trade union representative. The Senior Adviser for Safeguarding Children in Education and/or HR Consultancy for Schools will support the Headteacher throughout this process.

The investigation may conclude that:

- no further action is required;
- it may be appropriate to offer support or further training;
- it would be appropriate to give management guidance in order to register concerns, without recourse to disciplinary action;
- a referral to the formal disciplinary procedure is needed.

Disciplinary Hearing

Please refer to '*Guidelines on the Use of Disciplinary Procedure*' available on ConnectEd or from HR Consultancy for Schools or the school's own disciplinary procedures, or relevant Diocesan Procedures.

Guidance on the consideration of evidence (**see Appendix 2**).

11. Supporting those involved

It is important that the member of staff is supported throughout this process, kept informed of the course of the investigation and advised of other support available.

The school 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.

Trade Union – the member of staff subject to the allegation should be advised to contact their trade union or professional association for support, including legal support. If a member of staff is interviewed by the Police they can ask for their union solicitor to be present, if applicable.

If the member of staff is not a member of a trade union, support in the form of providing advice on the procedure may be available from a HR Consultant not involved in the case, but that Consultant will not be able to make representations on behalf of the member of staff.

Support for Colleagues – concerns are sometimes raised by colleagues who have witnessed behaviour that they consider to be abusive or inappropriate. It is important to enable staff to disclose their views without fear of retribution, even if the concerns are subsequently unsubstantiated. Such staff should be supported in accordance with the County Council's or school's 'Confidential Reporting (Whistleblowing) Policy'.

Occupational Health Service – where applicable, support may also be available through the schools Occupational Health provider.

12. Suspension

When an allegation is made against a member of staff, the possible risk of harm posed should be evaluated and managed. It may be necessary to consider whether the member of staff should be asked to refrain from work or suspended for the duration of the investigation.

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.

Based on assessment of risk, the following alternatives should be considered by the Headteacher before suspending a member of staff:

- redeployment within the school so that the member of staff does not have direct contact with the child or children concerned;
- providing an assistant to be present when the member of staff has contact with children;
- redeploying to alternative work in the school so the member of staff does not have unsupervised access to children;
- moving the child or children to classes where they will not come into contact with the member of staff, making it clear that this is not a punishment and parents have been consulted;
- temporarily redeploying the member of staff to another role in a different location; for example to an alternative school, work for the local authority or academy trust, including homeworking if appropriate; or
- paid leave of absence; mutual agreement to refrain from work.

Where it is deemed there is no alternative, suspension should only be considered on the following grounds:

- where a child or children are deemed to be at risk;
- where suspension is necessary to ensure the investigation is not impeded or prejudiced;
- where the allegation is of an exceptionally serious nature that dismissal for gross misconduct is a possible outcome.

If suspension is considered necessary, the rationale and justification for such a course of action should be agreed and recorded. This should also include what alternatives to suspension have been considered and why they were rejected.

Written confirmation should be sent to the member of staff within one working day, giving as much detail as appropriate for the reasons for the suspension.

Suspension is intended as a safeguard for both the child and the member of staff concerned. However, being suspended or asked to refrain from work can cause great anxiety to the person and also impact on colleagues.

The decision to suspend is made by the Headteacher or Head of Service. Children's Social Care Services or the Police cannot require the school to suspend a member of staff or volunteer, although the school should give appropriate weight to their advice. The power to suspend is vested in the school. The Headteacher or Head of Service should take advice from the LADO and HR Consultancy for Schools. A Position of Trust Meeting may recommend suspension which will need to be seriously considered.

Due consideration should be given to the potential permanent professional reputational damage to the employee that can result from suspension where an allegation is later found to be unsubstantiated or maliciously intended.

Only the Head of Service, for centrally employed staff can impose or lift a suspension. In maintained schools the Headteacher can authorise a suspension of a member of staff, but only the Governing Body of the school has the power to lift a suspension.

Academies are advised to check the individual arrangements for the Academy or Academy Trust regarding who has the authority to impose or lift a suspension, often this is only the Principal of the Academy.

Review of Suspension

Suspension will be on full pay and the lifting of the suspension may be considered at any time during the proceedings. The suspension should be reviewed every 20 working days or at a mutually agreed time and the member of staff given the opportunity to attend a meeting to discuss the suspension. It would not be appropriate to discuss the allegation itself but determine whether the suspension is still necessary.

Support for Suspended Member of Staff

Employers have a duty of care to their employees and should act to manage and minimise the stress inherent in the allegations process. The suspended member of staff should be given the name of a person, as an information contact to keep them updated on the progress of the investigation and consider what other support is appropriate.

A colleague contact or link person within school should be arranged to keep the member of staff updated on any work-related changes. The type of information and frequency of contact should be agreed, but colleagues should not comment on or discuss the investigation.

All employment matters relating to an individual employee remain confidential.

Social contact with colleagues and friends must not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

In cases where it is decided on the conclusion of the case that a person who has been suspended can return to work, the school should consider how best to facilitate that. Most people will benefit from some help and support to return to work after a very 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 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 at the school.

13. Supply, Casual or Volunteer Workers

In some circumstances the school at which a person works will need to consider an allegation where the person does not have an ongoing employment contract with them, for example: supply teachers, casual/agency workers, volunteers or contractors.

Whilst schools are not the employer, they need to ensure that allegations are dealt with properly. In no circumstances should a school cease to use a supply teacher, for example, due to safeguarding concerns, without finding out the facts and liaising with the LADO to determine a suitable outcome. The school should have a discussion with the employment agency (in the case of a supply teacher) about whether it is appropriate to suspend the supply teacher or redeploy to another part of the school whilst they carry out an investigation. The member of staff should be advised to contact their trade union representative or work colleague for support.

Both the school and the employer of the member of staff should fully co-operate with the LADO to ensure proper sharing of information, particularly taking account of any previous concerns or allegations known by the employer during the investigation and also regarding the need to make a referral to the DBS, if necessary.

If schools are using staff employed by another company they should inform them of their process for managing allegations (specifically this procedure).

14. Communication with Staff, Governors, Parents, Children and the Media

It is important that every effort is made to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated. Details of the complaint should not be discussed with members of staff or Governors, although the Headteacher may wish to inform the Chair of Governors that an allegation is being investigated.

Similarly, when an allegation concerns the Headteacher the Chair of Governors investigating the matter should not inform or discuss the allegation with the full governing body but may wish to take advice from Governor Services or the establishment's HR Consultant.

Consideration should be given to:

- 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.

In the event of educational establishments or schools, other than academies, receiving media enquiries, the County Council's Press Officer should be contacted for advice on the timing and content of a press statement. (Church Schools may also need to contact the Diocesan Press Officer.) Academies should consult with their legal advisers when preparing a press statement.

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).

'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).

If the parents or carers of a child or children involved are not aware of the allegation they should be advised of the allegation as soon as possible, after discussion with the LADO. In circumstances in which the Police or Social Care may need to be involved, the LADO will consult those colleagues about how best to inform parents. In some circumstances the school may need to advise parents of an incident involving their child straight away, for example if a child has been injured while at school or in a school related activity and requires medical treatment.

Parents/carers should be kept informed of the progress of the case and told the outcome where there is not a criminal prosecution. The deliberations of a disciplinary hearing and the information taken into account in reaching a decision, should not normally be disclosed.

15. False, Unsubstantiated, Unfounded or Malicious Allegations (see Appendix 1 for definitions)

The Headteacher/Police/Position of Trust Meeting may conclude, without or following an investigation, that an allegation is unfounded. In this case the Headteacher in consultation with the LADO should:

- inform the member of staff orally and in writing that no further action is being taken against them under child protection or disciplinary procedures;
- offer counselling and/or professional support to the member of staff, as appropriate;
- inform the parents of the child/ren of the allegation that it has been dealt with appropriately: parents do not have the right to know the detail of any investigation;
- consider appropriate support for the person who made the allegations.

In the event that the allegation is made by someone external to the school, the Police should be asked to consider whether any action might be appropriate against the person responsible.

Discussions should take place on how to support the member of staff if the allegation was made by a child within the school. This may include moving classes and/or providing another adult to work in the class.

Pupils that are found to have made malicious allegations are likely to have breached school behaviour policies. The school 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). In September 2010 The Crown Prosecution Service provided guidance on harassment under the Protection of Harassment Act 1997. This can be found at: www.homeoffice.gov.uk/about-us/corporate-publications-strategy/home-office-circulars/circulars-2012/018-2012/.

16. Referral to the Disclosure and Barring Service (DBS) and / or Teaching Regulation Agency

If the allegation is substantiated and the person is dismissed or the school 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 school and its HR Consultant whether a referral to the Disclosure and Barring Service (DBS) for consideration of inclusion on the barred lists or to the Teaching Regulation Agency 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. In such circumstances, the duty to refer an individual to the DBS 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. Professional misconduct cases should be referred to the relevant regulatory body. 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 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. This is from the date of dismissal not the date of the appeal hearing. HR Consultancy for Schools will provide further details on this process, where applicable.

17. Resignations and Settlement Agreements

The fact that a member of staff tenders his/her resignation, or ceases to provide his/her services, must not prevent an allegation being followed up under these procedures. It is important that every effort is made to reach a conclusion and wherever possible, the member of staff is given the opportunity to answer the allegations and make representations before a conclusion is reached.

But the process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be substantiated on the basis of all the information available, should continue even if that cannot be done or the accused does not co-operate.

Settlement agreements (sometimes referred to as compromise agreements), whereby a member of staff agrees to resign if the school/establishment agree not to pursue disciplinary action and may agree a form of wording to be used in a future reference, **must not** be used where the person is the subject of an allegation. Any agreement would not in any event prevent a Police investigation, where appropriate, nor override the statutory duty to report the case to the DBS, where applicable.

18. Timescales

It is in everyone's interests to resolve cases as quickly as possible without unnecessary delay, whilst enabling a fair and thorough investigation to take place. The time taken to investigate and resolve individual cases will depend on the seriousness and complexity of the investigation.

'Keeping Children Safe in Education' states that it is reasonable to expect that 80% of cases should be resolved within one month, 90% within three months, and all but the most exceptional cases should be completed within 12 months.

Cases Subject to Police Investigation

Where a case is subject to Police investigation, the Police should aim to complete their enquiries as quickly as possible, consistent with a fair and thorough investigation and keep the progress of the case under review. The national safeguarding guidance states that wherever possible a review should take place no later than 4 weeks after the initial action meeting and if the investigation is still continuing, dates for subsequent reviews be set.

However, staff need to be aware that allegations that require the forensic examination of computers, phones or other IT equipment is likely to take several months.

When the Police involvement is ended the guidance recommends that all information which may be relevant to a disciplinary case should be passed to the employer. The Police investigating officer may need to seek authorisation before releasing documents and statements, which may delay the process. Where a conviction takes place the Police should also inform the employer. The LADO will liaise with the designated Police officer to obtain this information.

19. Record-keeping

It is important that clear and comprehensive summary of the allegation and outcome (**see Appendix 1**) is kept on the member of staff's confidential personal file in school and a copy provided to the member of staff. This will ensure that accurate information is given in response to a future DBS Disclosure or a reference request and prevent unnecessary reinvestigation.

Details of allegations that are found to have been malicious should be removed from personnel records.

The safeguarding guidance recommends that the record should be retained at least until the member of staff has reached normal retirement age or for a period of 10 years from the date of the allegation, if longer.

The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on employment retention.

Other agencies involved in any investigation and the LA will keep their own records of the allegation.

20. References

Cases in which an allegation was proven to be false, unsubstantiated, unfounded or malicious should not be included in employer references. A history of repeated concerns or allegations

which have all been found to be unsubstantiated, malicious etc. should also not be included in any reference.

21. 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 Headteacher, 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 Headteacher should consider how future investigations of a similar nature could be carried out without suspending the individual.

Appendix 1

**SUMMARY OF INVESTIGATION
INTO AN ALLEGATION OF ABUSE**

Name:

Establishment:

Explanatory Statement

This statement is made in accordance with 'Keeping Children Safe in Education'.

There is a requirement to keep a clear and comprehensive summary of allegations, how the allegation was followed up and resolved, and a note of any action taken and decision reached. This should be kept on a member of staff's confidential personnel file, a copy provided to the person concerned and a copy held centrally by the LADO for Safeguarding Children in Education.

The purpose of this record is to enable accurate information to be given in response to any future request for a reference and will provide clarification in cases where a future DBS Disclosure reveals information from the Police about an allegation that did not result in a criminal conviction. It will also help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.

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

Summary of Allegation made, including date:

How Allegation was followed up:

Outcome of Investigation*:

Action taken and decisions reached:

Signed:
(Headteacher/Manager)

Date:

I have been fully informed of the investigation.

Signed:
(Member of staff)

Date:

Definitions

- (a) **Substantiated:** there is sufficient evidence to prove the allegation;
- (b) **False:** there is sufficient evidence to disprove the allegation;
- (c) **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
- (d) **Unfounded:** to reflect cases where is no evidence or proper basis which supports the allegation being made;
- (e) **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

(* *These definitions are taken from Part 4 of 'Keeping Children Safe in Education': Allegations of abuse made against teachers and other staff.*

Appendix 2

DISCIPLINARY HEARINGS – CONSIDERATION OF EVIDENCE

The disciplinary Decision Maker(s) must have regard to all the evidence presented to them and decide on the balance of probabilities¹:

- (a) Whether the person's behaviour has posed, or could pose, a risk to children to whom the organisation has a duty of care; and/or
- (b) Whether the behaviour has compromised, or could be seen to have compromised, the ability and reputation of the organisation to safeguard children by failure to uphold the standards expected of the employee.

The absence of any criminal investigation, charge or conviction is not an adequate defence for the adult who is subject to a disciplinary hearing. There may be evidence contained within the disciplinary investigation which leads the employer to question the suitability of the person to continue to work in a position of trust within the organisation even when no criminal activity has been identified or a criminal investigation has not led to a charge or a case has been brought before a court but there has been no conviction.

Children should not be expected to attend a disciplinary hearing. In some cases, a young person may clearly express a wish to contribute by giving evidence in person, and in such cases should be accompanied by a responsible adult whose role will be to ensure that his or her rights are observed.

The burden of proof in disciplinary proceedings requires that the evidence provided demonstrates that, on the balance of probabilities, there is a strong likelihood that the individual is unsuitable for his or her current position.

The panel's decision should not be influenced by concerns about whether, at a later stage, the individual may or may not be barred from working with children. Neither should concerns about any possible appeal process influence its decision.

The disciplinary decision makers should:

- Always act reasonably and in good faith in the interests of the child and the employee.
- Have no prior involvement that might prejudice their ability to hear the case fairly.
- Adjourn for further information or advice where necessary.
- Reach a decision based on a full consideration of all evidence with sufficient regard having been given to any explanation offered by the employee for his/her behaviour.
- Understand that the organisation must have a priority to safeguard children.

¹ *'Balance of probabilities' means that it is more likely to be the case than not based on the evidence available. This is a lower threshold than 'beyond reasonable doubt' which is used in a court of law.*

Appendix 3

SUMMARY OF PROCESS AND OUTCOMES

Initial Consideration of an Allegation

When an allegation is made to an adult:

- it should always be taken seriously;
- what is said should be clarified not questioned;
- a record should be made of what is said, using the actual words as far as possible;
- where necessary, any immediate medical needs should be addressed;
- the allegation must be reported immediately to the Headteacher/Manager (or Chair of Governors in the case of an allegation against the Headteacher);
- do not promise confidentiality but explain what will happen next.

Initial Action by the Headteacher/Manager

- Consult the LADO for Safeguarding Children in Education immediately who will advise on the appropriate course of action.
- Consider the facts as they have been presented.
- Collect any written accounts, if already available.

The Headteacher and LADO must consider the allegation and determine the appropriate way forward. The Headteacher should not investigate further or interview anyone and should not talk to any unauthorised person about the allegation.

The LADO will consider informing parents, informing the individual whom the allegation has been made against, and discuss the appropriate course of action with the Headteacher.

In some cases, the Police may request that the member of staff against whom the allegation is made, is not told of the allegation in case their prior knowledge may prejudice a Police investigation. This should only occur following a serious allegation or an allegation involving the use of technology (e.g. laptop or mobile phone).

Possible Outcomes

In discussion with the Headteacher the LADO may recommend:

- An immediate referral to Children's Social Care through the Family Front Door (previously known as Access Centre), who may arrange a joint services Position of Trust Meeting.
- Further local enquiries to gather more information/clarification.
- The allegation may not constitute a child protection issue but could be perceived as inappropriate behaviour by a member of staff warranting investigation by the school under disciplinary procedures. HR Consultancy for Schools can advise on the process.
- The allegation was false or unfounded, including a finding that reasonable force was used.

The process for managing an allegation against centrally employed staff and those in schools/educational settings

Headteacher/Manager/
Chair of Governors

Consult with LADO

- Log action and information
- DO NOT tell anyone, not even staff involved
- DO NOT investigate or interview

Incident definitely did not happen

Allegation without foundation **

Action is not abusive

Children, Families and Communities Services and/or school investigation **

Action may be abusive

1. Complete referral form to LADO
2. Contact HR provider
3. Inter-agency Position of Trust Meeting convened

Consider:

- why the allegation was made and his/her future management
- should an inter-agency referral be made?
- support for the adult

Informal action

Disciplinary process

Investigation by Social Care and/or Police **

** Member of staff may be offered counselling through an Occupational Health Provider and encouraged to contact their union

- NFA by Police/ Social Care
- Criminal investigation

Appendix 4

Worcestershire Local Authority Position of Trust Referral

This form should only be completed when making a referral or seeking advice from the Local Area Designated Officer (LADO) regarding a Person in a Position of Trust with children or young people. The referral form should be sent to the LADO within 24 hours of the incident occurring.

The LADO role provides advice and guidance to employers and voluntary organisations. In addition, they will monitor the progress of cases to ensure they are progressed in a timely and fair manner.

The following guidance is published by the Worcestershire Safeguarding Children's Board that should be followed:

<http://westmidlands.procedures.org.uk/ykpzy/statutory-child-protection-procedures/allegations-against-staff-or-volunteers>

These procedures should be applied when there is an allegation or concern that any person who works with children or young people has:

- a. Behaved in a way that has harmed, 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 that they may pose a risk of harm to children.

This is in connection with the person's paid employment or voluntary activity. Consideration will also be given to concerns arising about the person's behaviour within their own family that may present a transfer of risk in their current role.

The LADO will screen the referral within 24 hours and provide feedback on your referral. Incomplete referrals will be sent back to the referrer to complete and return.

Upon completion of the Position of Trust Referral Form please email the referral from to

lado@worcestershire.gcsx.gov.uk

Contact - 01905 846221

Personal information given to us is subject to the Data Protection Act 1998 and will be used to assess your needs and provide services if you are eligible. Worcestershire Local Authority reserves the right to share this information with external agencies who assist in the provision of services and any government departments who have a statutory right to such disclosure.

**POSITION OF TRUST REFERRAL FORM
OFFICIAL / SENSITIVE UPON COMPLETION**

Upon completion of this referral email it from a secure email address to lado@worcestershire.gcsx.gov.uk

1. DECLARATION	
I hereby certify that the following information that I have submitted in this referral is accurate, reflects my concerns and is completed to the best of my knowledge to ensure that children are appropriately safeguarded.	Yes <input type="checkbox"/>
Name :	Date:
Title :	

2. REASON FOR CONCERN	
<u>Instructions :</u>	
Ensure you consider the following to explain the incident/allegation of harm/transfer of risk. :	
<ul style="list-style-type: none"> - date/time of the behaviour - context of the behaviour - witnesses to the behaviour - frequency of the behaviour (e.g. kicked him 3 times) - duration of the behaviour (e.g. length of time a person was held) - latency of the behaviour or length of time before person took action) - observable injury - topography of the behaviour (how the behaviour looks e.g. fist, open hand) - impact of harm (e.g. child cried following incident) - the professionals family are subject to statutory social work intervention 	
Fill in the box below to detail your concern	
<u>Description of the concern/incident:</u>	
<u>What steps have you or other agencies taken to mitigate against any potential harm at this time :</u>	
Date you informed the person in the Position of Trust that you are making a referral to the LADO?	

3. ABOUT THE PERSON IN THE POSITION OF TRUST			
First Name		Last Name	
Address		Postcode	
Telephone		Gender	
Date of Birth		Religion	
Ethnicity			
Position Held			
Framework-i reference number			

Does the Person hold any other positions, e.g. voluntary roles, sports coach etc. If yes, please give details.	
Have there been any previous concerns, complaints or disciplinary issues regarding this person?	

4. About you (the referrer)			
First Name		Last Name	
Name of Organisation		Job Title	
Email address		Telephone Number	
Relationship to person in a position of trust/ your agency's role or service provided		Contact address	

5. Details of Personal Relationships to the Person in a Position of Trust – their own children and Family Members / Significant Others.							
First Name	Last Name	DOB/EDD/ Age	Ethnicity	Address & Telephone	Gender	Relationship to child	School or GP if different to Child

6. About the child who is the alleged victim. (If applicable and named child known)			
First Name		Last Name	
Address		Post Code	
Telephone		Gender	
Date of Birth or Expected Delivery Date		If you do not know this information estimate the child's age	
Ethnicity		Religion	
Disability		Please state (see guidance for definitions)	
Interpreter Required? (If yes, state language)	Yes <input type="checkbox"/> No <input type="checkbox"/> Which language?		
Framework I reference number			

7. (FOR OFFICIAL USE ONLY) Date & Time referral has been sent to LADO	
Date of incident: Click here to enter a date.	
Date/time of referral received by LADO: Click here to enter a date.	
Date/time of response to the referrer:	
Recommendation or advice given by LADO:	

Upon completion of the Position of Trust Referral Form please email the referral from a secure email address to :

lado@worcestershire.gcsx.gov.uk

Contact - 01905 846221

Appendix 5

CONTACTS

Senior Adviser for Safeguarding Children in Education	07815 875069
Local Authority Designated Officer (LADO)	01905 846221
HR Consultancy for Schools	01905 947445
Family Front Door (previously known as Access Centre)	01905 822666
Out of Hours Emergency Duty Team	01905 768020
Police Public Protection Unit: Emergency:	101 999

REFERENCES

- 'Keeping Children Safe in Education' – DfE, September 2018
- 'Guidance for Safer Working Practice for Adults who work with Children and Young People in Education Settings' – Safer Recruitment Consortium, 2015

For further reference please see:

- Local procedures contained on The Worcestershire Safeguarding Children Board website: www.safeguardingworcestershire.org.uk/
- Disclosure and Barring Service: www.homeoffice.gov.uk/dbs

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