

Larkspur Primary School

Allegations of Abuse Against Staff (Procedure for Dealing with Allegations)



Handling Allegations Against Staff in School

1. Introduction

The purpose of this document is to assist Head Teachers and Governors interpret current law and guidance to ensure that all complaints and allegations against staff, where there is a child welfare concern, are dealt with appropriately.

There are a number of documents that have been produced in recent years by the likes of National Employers' Organisation for School Teachers (NEOST), Teachers Union Guidance, Department for Education etc, however this document is a guide specifically in relation to how Gateshead Council advise that allegations should be handled and the relevant school policies and procedures that should be applied.

2. Relevant Legislation

- The Children's Act 1989
- Section 175 of the Education Act 2002 (local authorities, governing bodies of maintained schools and institutions in the further education school)
- 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

3. School Safeguarding Policies and Procedures

All schools should have clear policies and procedures for dealing with safeguarding and this should include details of the process when dealing with allegations against staff. The procedures should make it clear that all allegations should be reported **straight away** to a designated member of staff and should also include contact details for the Local Authority officers who deal with both child protection issues (Safeguarding Children Unit) and any associated employment issues (Human Resources).

4. School Based Safeguarding Contact

All schools should have a member of staff designated as the Child Protection Officer; this should be the Head Teacher or someone on the Senior Leadership Team. The role of the School Child Protection Officer will be to co-ordinate action within the school and to liaise with social services departments and other agencies over suspected child abuse.

A member of the schools Governing Body should also be nominated in order to liaise with the Head Teacher/school designated Child Protection Officer over matters regarding child protection issues, this should generally be the Chair of Governors or in the absence of the Chair this should be the Vice/Deputy Chair.

5. Gateshead Council Safeguarding Children Unit

Gateshead Council have a Local Authority Designated Officer (LADO) who is responsible for coordinating multi agency meetings and actions in relation to child protection issues, the contact for this is Nicholas Leon and he can be contacted by telephoning 0191 4338021 or by emailing nicholasleon@gateshead.gov.uk.

Frances Ewart, Safeguarding Manager for Education can also be contacted and is the contact for providing training specifically in relation to child protection. Frances can be contacted by telephoning 0191 4338595 or by emailing francesewart@gateshead.gov.uk.

6. Key Points to Remember

- Where an allegation has been made against a member of staff the quick resolution of that allegation should be a clear priority to the benefit of all concerned and all unnecessary delays should be eradicated.
- The time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegations.
- Given that staff within schools have daily contact with children in a variety of situations, including the wider care role then they are likely to be vulnerable to accusations of abuse being made against them. Their relationships with pupils may lead to allegations being made by pupils or parents. Those allegations may be false, malicious or misplaced and may either be deliberate or innocent of such intent. Regardless of the motives underlying any allegations they may also be well-founded and must be investigated.

7. How Allegations may come to Notice

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

Concerns may be raised in a number of ways:

- Direct disclosure by the child or young person
- Indirect disclosure e.g. through written/art work or through friends
- Complaint from a parent/carer to:
 - Head Teacher/Manager/Local Authority
 - Social Services
 - Police
- Reports by other colleagues or agencies
- Anonymously

8. Urgent Initial Actions Following an Allegation

Immediately where an allegation is made against a member of staff there should be urgent consultation by the Head Teacher/School Child Protection Officer with the Local Authority Designated Officer (LADO), the purpose of this initial discussion is for the LADO and School representative dealing with the allegation to consider the nature, content and context of the allegation and to agree an initial course of action. The LADO will consider whether allegations meet the criteria to then consult with the police and the authority's children's social care services.

At this stage the LADO may get in touch with Human Resources to discuss in more detail the employment issues or may recommend that the School representative makes contact with Human Resources for some initial advice in relation to the member of staff.

Other immediate action for the Head Teacher/School representative dealing with the allegation (or in cases where the allegation is against the Head Teacher the nominated Governor) should obtain written details of the allegation, signed and dated from the person who received the allegation, please note that this should not be from the child who made/was the subject of the allegation.

If a child makes an allegation that is considered to be a potential criminal act or has indicated that they have suffered or is likely to suffer significant harm then there should be an immediate referral to the Child Protection Unit, if there is any doubt in relation to this then guidance and clarification can be sought from the LADO during the initial discussions with him.

At this stage the LADO may ask the School representative 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 individuals current contact with children outside of school (i.e. do they have any children of their own or do they run out of school groups such as scouts or football clubs etc). Human Resources will also be contacted at this stage to provide details in terms of the staff member's home address and date of birth.

This initial sharing of information and evaluation of information may lead to a decision that no further action is to be taken from a child protection element however there may still be a need for management investigations to proceed to look at the allegations in relation to professional conduct, at this stage Human Resources will become more heavily involved.

For example it may be decided that staff who have used reasonable force to restrain a pupil but not followed school procedure will require for the matter to be dealt with at school level however an allegation of assault beyond the use of reasonable force would however need to be dealt with in accordance to the local child protection procedures. Also if, after the initial discussions and consideration of the facts, it is absolutely clear to the LADO and School representative that the allegation is demonstrably false due to the immediate circumstances showing that it would not be possible for the allegation to be true then the school and HR will assess whether the allegation may present inappropriate behaviour or poor practise which would then need to be considered under the schools disciplinary policy.

In order for the allegation/complaint to be dealt with as a Child Protection Issue it would have to meet the following criteria to show that the member of staff:

- Behaved in a way that has harmed a child
- Committed a criminal offence against or related to a child
- Behaved towards a child or children in a way that indicates they are unsuitable to work with children

Should the LADO decide that the incidents meet any of the above criteria and there is a threat of significant harm, a Strategy Meeting will be called with relevant agencies to consider the allegation and any other information that parties may consider relevant.

If a Strategy Meeting is called then the person facing the allegations should not be told of the allegations until after a Strategy Meeting to ensure that any information disclosed does not jeopardise any further internal or criminal investigations.

If it has been decided that a Strategy Meeting is not required then a discussion should take place with the staff member to inform them that an allegation against them has been made and that further investigations will need to take place. It can be discussed with the LADO exactly what information can be disclosed to the person at this stage.

9. Strategy Meetings

Strategy Meetings are convened in accordance with paragraph 5.56 of Working Together to Safeguard Children to ensure all relevant agencies can provide any information they have concerning the parties involved.

The agencies invited to the meeting are Police, Social Services, Health, Head Teacher/School designated officer, HR and Legal Services. If it is known that the member of staff has other connections with other organisations involved in working with children (i.e. Scouts, football clubs) then a representative from that organisation may also be invited to attend.

These meetings would consider whether or not the allegation should instigate:

- A police investigation of a possible criminal offence
- Enquires and assessment by Social Services about whether or not a child is in need of protection or support
- Internal investigations to start under the Schools Disciplinary Procedure.

Once the initial Strategy Meeting discussions have taken place and a decision made in terms of the management of the case further discussions should then take place in relation to whether or not the member of staff should be suspended from work.

10. Suspension from Work

Decisions on suspensions are taken by Head Teachers or Governing Body (in cases where the allegations are relating to a Head Teacher then the Chair of Governors will need to be involved).

Please note that for **all** cases of potential suspension the case must be discussed with Human Resources and suspension should only follow after a discussion has taken place to seek the relevant HR advice.

It is important to point out that staff facing allegations against them should not automatically be suspended, suspension should not be the default position and an individual should only be suspended if there is no reasonable alternative.

Reasonable alternatives to suspension would include:

- Undertaking different duties which do not involve direct contact with the individual child or other children
- Providing a Teaching Assistant or other colleague to be present throughout contact time
- Undertake office duty
- Undertake non contact tasks only

For cases where the above alternatives are not able to be accommodated or where there is a cause to suspect a child or other children are at risk of significant harm, the allegation warrants investigation by the police, is so serious that it might be classed as gross misconduct and warrant dismissal, or where it is necessary to allow the conduct of the investigation to proceed unimpeded then it is more likely that it will be necessary to suspend the member of staff.

Following advice from HR a suspension meeting can be set up and a representative from HR will be available to attend in order to provide the relevant advice to either the Head Teacher/Governor responsible for suspending the member of staff. The member of staff will be entitled to representation by either a Trade Union Rep or a work colleague at this meeting where the reasons for the suspension will be detailed. Following this a letter will be sent out to the member of staff confirming what was discussed at the meeting and the conditions of their suspension.

During any period of suspension the member of staff must remain on full pay.

11. Police Involvement

In cases where it is deemed appropriate for the police to be involved then the investigation by the police will take priority over an internal investigation by the school. An internal investigation running alongside a criminal investigation is not likely to be best practice and schools should take on board any advice and guidance received from the police in terms of the timing of an internal investigation.

In some cases the police may act independently, particularly where the alleged offence does not arise from the member of staff's professional duties in school.

Any updates from police investigations will be shared at follow up Strategy Meetings and once police have concluded their own investigations an update will be provided to the Head Teacher/School Child Protection Officer in order for internal processes to start.

Even in cases where the police do not take any formal criminal action against the member of staff a discussion will need to take place with the LADO and Human Resources in terms of any professional conduct that needs to be investigated by the school. It may be necessary to request information from the police in order to assist with any internal investigations.

12. Internal Investigations into Allegations

The investigation is a fact finding exercise and is a preliminary to considering the appropriateness of disciplinary action (please also refer to your schools Disciplinary Policy & Procedure).

Any internal investigation held under the schools disciplinary procedure should be clearly separated from child protection and criminal investigations. Whilst the internal investigations can be informed by child protection and criminal investigations they should remain separate due to the fact that child protection and criminal processes have different objectives to the school's disciplinary procedure and they shouldn't be confused.

At this stage an independent Investigating Officer should be appointed, this should normally be a member of the Senior Leadership Team or Head Teacher however it is important to note that the Investigating Officer should have had no prior involvement in the case and needs to act independently to obtain, as far as possible, a fair and balanced picture.

In circumstances where there is a lack of resource within school for an Investigating Officer to be appointed (i.e. members of Senior Leadership Team/Head Teacher have been involved in the earlier stages of the process) or where the allegations are of a complex nature then advice can be sought from the Local Authority and it may be deemed more appropriate for the schools Link Inspector to act as Investigating Officer.

For all investigations a representative from HR will be allocated to work alongside the Investigating Officer in order to provide advice and guidance during all stages of the investigation. The HR representative will also attend any investigatory meetings that the Investigating Officer may need to conduct.

At this stage the Investigating Officer/HR Representative should:

- Define areas to be investigated
- Draw up a provisional list of people to be interviewed or if more appropriate people who witness statements need to be obtained from
- Check any corroborative evidence

All Investigatory Interviews should be carried out as soon as possible or a statement should be taken from each person who is deemed to be a witness and these statements **must** be signed and dated, failure to have relevant evidence signed and dated may result in any subsequent disciplinary processes being flawed due to this technicality.

Once all witnesses have been interviewed or have produced a signed statement it will then reach the point of holding an Investigatory Interview with the employee who is the subject of the allegations. As per the Schools Disciplinary Policy the member of staff will be informed in writing with details of the Investigatory Interview. HR will send out a template letter and help draft a form of words in relation to the allegations and at this meeting the employee will be entitled to representation by a Trade Union Representative or work colleague.

At this stage no evidence should be disclosed to the member of staff as the investigatory interview is basically there opportunity to give their version of events in relation to the allegations.

Full notes of the Investigatory Interview should be taken and it is best practice for the member of staff concerned to read and sign them as a true record of the interview. Notes can be taken by a member of the Schools admin team as long as they have no prior involvement in the case.

Once all relevant persons have been interviewed and the relevant issues have been explored, the investigation is complete. The details obtained and the statements taken should then be compiled into a report. Advice and guidance can be provided by your HR Advice contact when drafting the report.

A recommendation will need to be made by the Investigating Officer (as advised by HR) on whether disciplinary action is appropriate. If so the report should be presented to the Head Teacher or where the Head Teacher has been the investigating officer the report will need to go to the Chair of Governors for them to decide whether based on the recommendations of the report a disciplinary meeting is to be set up.

Where details of an allegation are found to be malicious these should be removed from personnel records and where the member of staff is suspended, the suspension should be lifted immediately and the school should make arrangements for them to return back to work, this can be discussed with the employees Trade Union Representative and HR Advice contact. Also where a case has been proven to be unsubstantiated, unfounded or malicious the details should not be included in employer references.

13. Disciplinary Action

(Please also refer to your schools disciplinary policy & procedure for more details)

If it is decided there is a disciplinary case to answer a decision will need to be made by the school as to who will chair the meeting and who will form part of the disciplinary decision making panel, this panel should include all impartial members who have had no prior involvement in the case.

The responsibility for disciplinary matters lies with the Governing Body of the school however they do have the ability to delegate this power to the Head Teacher.

Where a Head Teacher has been involved in the early stages of the case or where the Head Teacher has had the role of Investigating Officer then the disciplinary must be heard by a panel of three Governors, one of which will take the role as chair.

In cases where dismissal is likely to be the outcome, the disciplinary must be heard by a panel of governors, the Head Teacher may form part of this panel if they have had no prior involvement in the case.

For disciplinary purposes advice and guidance will be provided by a representative from HR Advice and this will be a rep who did not advise at the Investigation Stage, this will ensure impartiality throughout the whole process. Your HR Advice contact will also be present at the disciplinary meeting to advise the panel/head teacher on the relevant procedures and level of sanction to be issued.

Outcomes of disciplinary include:

- Written Warning
- Final Written Warning
- Dismissal or other sanction short of dismissal
- Dismissal with notice or dismissal with lieu of notice
- Gross Misconduct – Dismissal without notice

14. Action Following Disciplinary

If the allegations have been substantiated and the person has been dismissed the Head Teacher/Chair of Governors should discuss with the LADO, HR and Safeguarding Support Unit to discuss whether a referral to the Independent Safeguarding Authority (ISA) is required in order for consideration of inclusion on the barred lists or whether a referral needs to be made to the Department for Education (DfE). There is a legal requirement for employers to make a referral to the ISA where they think that an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child or if a person otherwise poses a risk of harm to a child.

It is important to note that even if a member of staff resigns pending an internal investigation or disciplinary that the school still have a duty of care to assess whether a referral is required.

The ISA will consider whether to bar the person from working in regulated activity, which will include work in schools and other educational establishments. Local Authorities and schools have a statutory duty to make reports, and to provide relevant information to the ISA. Referrals should be made as soon as possible after the resignation or dismissal of the member of staff.

15. Schools HR Advice Team

When dealing with any allegations against staff it is advisable to involve HR from the initial allegation being made and throughout each stage of the process.

HR representatives will be available to provide support and guidance from an employment perspective throughout the process to ensure that relevant employment legislation and policies are adhered to. HR will also attend any necessary meetings throughout the process to support Head Teachers/Governors.

The following HR Advice staff are available to provide further advice and guidance on any of the above:

- Sandra Hewson
Senior HR Adviser
0191 4332698
sandrahewson@gateshead.gov.uk
- Emma Manfren
Senior HR Adviser
0191 433 2887
emmajane carr@gateshead.gov.uk

