



Managing Allegations of abuse made against teachers and other staff

This guidance is about managing cases of allegations that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children in their present position, or in any capacity. It should be used in respect of all cases in which it is alleged that a teacher or member of staff (including volunteers) 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; or
- 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.

This part of the guidance relates to members of staff who are currently working in our school regardless of whether the school is where the alleged abuse took place. Allegations against a teacher who is no longer teaching should be referred to the police.

1. MIET Trust has a duty of care to their employees. They will ensure they provide effective support for anyone facing an allegation and provide the employee with a named contact if they are suspended. It is essential that any allegation of abuse made against a teacher or other member of staff or volunteer in the school is dealt with very quickly, in a fair and consistent way that provides effective protection for the pupil and at the same time supports the person who is the subject of the allegation.

Initial considerations

2. 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, or may do so without warranting consideration of either a police investigation or enquiries by local authority children's social care services. In these cases, local arrangements would be followed by the school to resolve cases without delay.

Some rare allegations will be so serious they require immediate intervention by children's social care services and/or police. The Local Authority Designated Officer (LADO) will be informed of all allegations that come to the school attention and appear to meet the criteria so they can consult police and children's social care services as appropriate.

3. The following definitions should be used when determining the outcome of allegation investigations:

- **Substantiated:** there is sufficient evidence to prove the allegation;
- **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
- **False:** there is sufficient evidence to disprove the allegation;
- **Unsubstantiated:** there is insufficient evidence to either to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

4. In the first instance, the head teacher (HT) or chair of Trustees (CT) will immediately discuss the allegation with the LADO. The purpose of an initial discussion is for the LADO and the case manager (HT or CT) to consider the nature, content and context of the allegation and agree a course of action. The LADO may ask the case manager to provide or obtain relevant additional information, such as previous history, whether the pupil or her family have made similar allegations previously and the individual's current contact with pupils, There may be situations when the case manager will want to involve the police immediately, for example if the person is deemed to be an immediate risk to children or there is evidence of a possible criminal offence.

Where there is no such evidence, the case manager will discuss the allegations with the LADO in order to help determine whether police involvement is necessary.

5. The 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 case manager and the LADO, and agreement reached on what information should be put in writing to the individual concerned and by whom. The case manager should then consider with the LADO what action should follow both in respect of the individual and those who made the initial allegation.
6. The case manager will inform the accused person about the allegation as soon as possible after consulting the LADO. The case manager will provide them with as much information as possible at that time. However, where a strategy discussion is needed, or police or children's social care services need to be involved, the case manager **will not** do that until those agencies have been consulted, and have agreed what information can be disclosed to the accused. He Trustees will consider carefully whether the circumstances of a case warrant a person being suspended from contact with pupils at the school or whether alternative arrangements can be put in place until the allegation or concern is resolved. All options to avoid suspension will be considered prior to taking that step (see further information on suspension which follows).
7. If there is cause to suspect a pupil is suffering or is likely to suffer significant harm, a strategy discussion will be convened in accordance with Working Together to Safeguard Children. If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take into account that teachers and other school staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour.
8. Where it is clear that an investigation by the police or children's social care services is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the LADO should discuss the next steps with the case manager. In those circumstances, the options open

to the school depend on the nature and circumstances of the allegation and the evidence and information available. This will range from taking no further action to dismissal or a decision not to use the person's services in future. Suspension should not be the default position: an individual should be **suspended only** if there is no reasonable alternative.

9. In some cases, further enquiries will be needed to enable a decision about how to proceed. If so, the LADO should discuss with the case manager how and by whom the investigation will be undertaken. In straightforward cases, the investigation should normally be undertaken by the HT.
10. However, in other circumstances, such as lack of appropriate resource within the school, or the nature or complexity of the allegation will require an independent investigator. In the latter case, the school will contact the authority to an access to an affordable facility for independent investigation where that is appropriate supporting those involved.
11. The Trustees have a duty of care to all staff. They will act to manage and minimise the stress inherent in the allegations process. Support for the individual is vital to fulfilling this duty. Individuals will be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by the children's social care services or the police. The individual should be advised to contact their trade union representative, if they have one, or a colleague for support.
12. The case manager should appoint a named representative, which will be nominated by the HT or CT 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.
Particular care will be taken when staff are suspended to ensure they are kept informed of both the progress of their case and the current work-related issues. Social contact with colleagues and friends will not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.
Parents or carers of pupil/s involved will be told about the allegation as soon as possible if they do not already know of it. However, where a

strategy discussion is required, or police or children's social care services need to be involved, the case manager **should not** do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers. Parents or carers should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but the parents or carers of the child will be told the outcome in confidence.

13. Parents and carers will also be made aware of the prohibition on reporting or publishing allegations about teachers in section 141F of the Education Act 2002 (see below). If parents or carers wish to apply to the court to have reporting restrictions removed, they will be told to seek legal advice.

14. In cases where a pupil may have suffered significant harm, or there may be a criminal prosecution, children's social care services, or the police as appropriate, would consider what support the pupil/s involved may need.

Confidentiality

15. When an allegation is made against a staff member, the school will make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2011 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). The reporting restrictions apply until the point that the accused person is charged with an offence, or until the Secretary of State⁴⁶ or the General Teaching

Council for Wales publishes information about an investigation or decision in a disciplinary case arising from the allegation. The reporting restrictions also cease to apply if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a

judge lifts restrictions in response to a request to do so. The provisions commenced on 1st October 2012.

In deciding what information to disclose, careful consideration will be given to the provisions of the Data Protection Act 1998, the law of confidence and, where relevant, the Human Rights Act 1998.

16. The legislation imposing restrictions makes clear that “publication” of material that may lead to the identification of the teacher who is the subject of the allegation is prohibited. “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).

17. In accordance with the Association of Chief Police Officers’ (ACPO) guidance the police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. (In exceptional cases where the police would like to depart from that rule, for example an appeal to trace a suspect, they must apply to a magistrates’ court to request that reporting restrictions be lifted).

18. The case manager should take advice from the LADO, police and children’s social care services to agree the following:

- 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.

Managing the situation and exit arrangements

Resignations and 'settlement/compromise agreements'

19. If the accused person resigns, or ceases to provide their services, this will not prevent an allegation being followed up in accordance with this guidance. A referral to the DBS will be made, if the criteria are met. If the accused person resigns or their services cease to be used and the criteria are met it will not be appropriate to reach a settlement/compromise agreement. A settlement/compromise agreement which prevents the school from making a DBS referral when the criteria are met, would likely result in a criminal offence being committed as the school would not be complying with its legal duty to make the referral.

20. Every effort will be made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process. Wherever possible the accused should be given a full opportunity to answer the allegation and make representations about it.

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 cooperate. It may be difficult to reach a conclusion in those circumstances, and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

So-called 'settlement/compromise agreements', by which a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, should not be used in cases of refusal to cooperate or resignation before the person's notice period expires. Such an agreement will not prevent a thorough police investigation where that is appropriate.

Record keeping

21. Details of allegations that are found to have been malicious would be removed from personnel records. However, for all other allegations, a

clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, will be kept on the confidential personnel file of the accused, and a copy provided to the person concerned.

22. The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record will be retained at least until the accused has reached normal retirement age or for a period of **10 years** from the date of the allegation if that is longer.
23. Cases in which an allegation was proven to be false, unsubstantiated or malicious would not be included in employer references. A history of repeated concerns or allegations which have all been found to be false, unsubstantiated or malicious would also not be included in any reference.

Timescales

24. It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations would be investigated as a priority to avoid any delay. Target timescales are shown below: the time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation, but these targets would be achieved in all but truly exceptional cases. It is expected that 80 per cent of cases should be resolved within one month, 90 per cent within three months, and all but the most exceptional cases should be completed within 12 months.
25. For those cases where it is clear immediately that the allegation is unsubstantiated or malicious, they should be resolved within **one week**. Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the Trustees to deal with

it, although if there are concerns about child protection, the Trustees should discuss them with the LADO. In such cases, if the nature of the allegation does not require formal disciplinary action, the Trustees should institute appropriate action within **three working days**. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within **15 working days**.

Oversight and monitoring

26. The LADO has overall responsibility for oversight of the procedures for dealing with allegations; for resolving any inter-agency issues; and for liaison with the Local Safeguarding Children Board (LSCB) on the subject. The LADO will provide advice and guidance to the case manager, in addition to liaising with the police and other agencies, and monitoring the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process. Reviews would be conducted at fortnightly or monthly intervals, depending on the complexity of the case.

Police forces should also identify officers who will be responsible for:

- liaising with the LADO;
- taking part in the strategy discussion or initial evaluation;
- subsequently reviewing the progress of those cases in which there is a police investigation; and
- sharing information on completion of the investigation or any prosecution.

27. If the strategy discussion or initial assessment decides that a police investigation is required, the police should also set a target date for reviewing the progress of the investigation and consulting the Crown Prosecution Service (CPS) about whether to: charge the individual; continue to investigate; or close the investigation. Wherever possible, that review should take place no later than four weeks after the initial evaluation. Dates for subsequent reviews, ideally at fortnightly intervals, should be set at the meeting if the investigation continues.

Suspension

28. The possible risk of harm to pupils posed by an accused person would be evaluated and managed in respect of the pupil/s involved in the allegations. In some rare cases that will require the case manager to consider suspending the accused until the case is resolved. Suspension would not be an automatic response when an allegation is reported; all options to avoid suspension will be considered prior to taking that step. If the case manager is concerned about the welfare of other pupils in the community or the teacher's family, those concerns would be reported to the LADO or police. But suspension would be highly unlikely to be justified on the basis of such concerns alone.

29. Suspension would be considered only in a case where there is cause to suspect a pupil or other pupils at the school is/are at risk of harm or the case is so serious that it might be grounds for dismissal. However, a person would not be suspended automatically: the case manager will consider carefully whether the circumstances warrant suspension from contact with pupils at the school or until the allegation is resolved, and may wish to seek advice from their personnel adviser. In cases where the school is made aware that the Secretary of State has made an interim prohibition order in respect of an individual at the school, it will be necessary to immediately suspend that person from teaching pending the findings of the investigation.

30. The case manager would also consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements. In many cases an investigation can be resolved quickly and without the need for suspension. If the LADO, police and children's social care services have no objections to the member of staff continuing to work during the investigation, the case manager would be as inventive as possible to avoid suspension. Based on assessment of risk, the following alternatives would be considered by the case manager before suspending a member of staff:

- redeployment within the school so that the individual does not have direct contact with the pupil/s concerned;
- providing an assistant to be present when the individual has contact with pupils;
- redeploying to alternative work in the school so the individual does not have unsupervised access to pupils;

- moving the pupil/s 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; or
- temporarily redeploying the member of staff to another role in a different location, for example to an alternative school if possible

31. These alternatives allow time for an informed decision regarding the suspension and possibly reduce the initial impact of the allegation. This will, however, depend upon the nature of the allegation. The case manager would consider the potential permanent professional reputational damage to staff that can result from suspension where an allegation is later found to be unsubstantiated or maliciously intended.

32. If immediate suspension is considered necessary, the rationale and justification for such a course of action would be agreed and recorded by both the case manager and the LADO. This would also include what alternatives to suspension have been considered and why they were rejected.

33. Where it has been deemed appropriate to suspend the person, written confirmation should be dispatched within **one working day**, giving as much detail as appropriate for the reasons for the suspension. The person would be informed at the point of their suspension, who their named contact is within the school and provided with their contact details.

34. The power to suspend is vested in the Trustees of the school who are the employers of staff. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by the children's social care services and/or an investigation by the police, the LADO should canvass police and children's social care services for views about whether the accused member of staff needs to be suspended from contact with children in order to inform the school consideration of suspension. **Police involvement does not make it mandatory to suspend a member of staff; this decision should be taken on a case-by-case basis having undertaken a risk assessment.**

Information sharing

35. In a strategy discussion or the initial evaluation of the case, the agencies involved should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.
36. Where the police are involved, wherever possible the Trustees will ask the police to obtain consent from the individuals involved to share their statements and evidence for use in the employer disciplinary process. This should be done as their investigation proceeds and will enable the police to share relevant information without delay at the conclusion of their investigation or any court case.
37. Children's social care services should adopt a similar procedure when making enquiries to determine whether the pupil/s named in the allegation are in need of protection or services, so that any information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to the employer without delay.

Specific actions

Following a criminal investigation or a prosecution

38. The police should inform the employer and LADO 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 continue to prosecute the case after person has been charged. In those circumstances the LADO is expected to discuss with the case manager whether any further action, including disciplinary action, is appropriate and, if so, how to proceed. The information provided by the police and/or children's social care services should inform that decision. The options will depend on the circumstances of the case and the consideration will need to take into account the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

On conclusion of a case

39. If the allegation is substantiated and the person is dismissed or the Trustees ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the LADO would discuss

with the case manager and their personnel adviser whether the school will decide to make a referral to the DBS for consideration of inclusion on the barred lists is required;⁴⁸ and in the case of a member of teaching staff whether to refer the matter to the National College for Teaching and Leadership (NCTL) to consider prohibiting the individual from teaching.

There is a legal requirement for the Trustees to make a referral to the DBS where they think that an individual has engaged in conduct that harmed (or is likely to harm) a pupil; or if a person otherwise poses a risk of harm to a child.

40. Where it is decided on the conclusion of a case that a staff who has been suspended can return to work, the case manager would consider how best to facilitate that. Most staff will benefit from some help and support to return to work after a stressful experience. Depending on the individual's circumstances, a phased return and/or if possible the provision of a mentor to provide assistance and support in the short term may be provided. The case manager would also consider how the person's contact with the pupil/s who made the allegation can best be managed if they are still a pupil at the school.

In respect of malicious or unsubstantiated allegations

41. If an allegation is determined to be unsubstantiated or malicious, the LADO would refer the matter to the children's social care services to determine whether the pupil concerned is in need of services, or may have been abused by someone else. If an allegation is shown to be deliberately invented or malicious, the Head teacher, or the Trustees would consider whether any disciplinary action is appropriate against the pupil who made it; or whether the police should be asked to consider if action might be appropriate against the person responsible, even if he or she was not a pupil.

Learning lessons

42. At the conclusion of a case in which an allegation is substantiated, the LADO would review the circumstances of the case with the case manager 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 case manager would consider how future investigations of a similar nature could be carried out without suspending the individual.