

## **Aspiring Foundations Federated Nursery Schools**

### **SAFEGUARDING CHILDREN AND SUPPORTING STAFF**

#### **THE MANAGEMENT OF ALLEGATIONS AND CONCERNS REGARDING STAFF IN EDUCATION SETTINGS**

The following policy is based on statutory guidance from Department for Education.

#### **WHAT LEGISLATION DOES THIS POLICY RELATE TO?**

- The Children Act 1989
- Section 175 of the Education Act 2002 (local authorities, governing bodies of maintained schools and institutions in the further education sector)
- Section 157 of the Education Act 2002 and the Education (Independent School Standards) (England) Regulations 2010
- The Children Act 2004
- Section 11 of the Children Act 2004 (other agencies)
- Sections 141F, 141G and 141H3 of the Education Act 2002.
- Data Protection Act 2018; General Data Protection Regulation (GDPR) 2018
- Working Together to Safeguard Children 2018
- Keeping Children Safe in Education, 2019
- Statutory framework for the early years foundation stage, 2014

And with reference to the following key documents:

- Information Sharing: Advice for Practitioners providing safeguarding services 2015
- Halton Safeguarding Children Board Pan-Cheshire Multi-Agency Safeguarding Children Procedures (<http://www.online-procedures.co.uk/pancheshire/>)
- Guidance for safer working practice for adults who work with children and young people in education settings 2019

For the purpose of these procedures a 'staff member' is a person whose work brings them into contact with children in an education setting. It therefore applies to all staff, including contracted staff and individuals working in a voluntary capacity on or off school premises.

#### **Introduction**

Throughout their day to day contact with children, staff have a crucial role to play in noticing indicators of possible abuse or neglect and in referring concerns to the Designated Person for Child Protection. Governing bodies have a duty under S175 of the Education Act 2002 to ensure that sufficient measures are in place to safeguard the children and young people in their establishment. In general, the school will contribute important information about the child's needs, level of understanding and the most effective means of communication, as well as providing the means by which many child protection referrals are made.

Given their contact however, staff can also be vulnerable to accusations of abuse. It is acknowledged that sometimes these allegations are found to be untrue. It should be remembered however, that children and young people sometimes make allegations to draw attentions to problems experienced elsewhere in their lives or because they have misinterpreted an incident. It is also regrettable that there are occasions when allegations are substantiated.

All staff can contribute to child protection by helping to create a safe environment for children and young people. Children can be helped to understand what is acceptable behaviour, how they can stay safe from harm and how to speak up if they have worries.

This means that staff must also be aware of behaviour that is acceptable and behaviour that might make them vulnerable. Guidelines for staff working with children and young people help minimise risk for all concerned. By doing so we make an essential contribution to their responsibilities in safeguarding children and in our duty of care to staff.

Any instance of a pupil being abused by a member of staff is particularly serious. Equally, for an innocent person to be subject to what may be a lengthy period of investigation and possibly suspension, coupled with the threat of possible arrest, is a serious ordeal. Such experience can result in long term damage to a person's health and career. Any allegation against staff should therefore be dealt with fairness and efficiency.

All efforts should be made to bring matters to a clear conclusion to safeguard children and staff alike.

## **Roles and Responsibilities**

**Head Teacher** – The Head of the school is responsible for dealing with allegations against members of staff. In her absence, this role will be undertaken by the deputy. In general, the Head Teacher is responsible for creating a safe environment in the school and is responsible for appointing a Designated Person for Child Protection.

**Designated Person for Child Protection** – This is a senior member of staff who has responsibility for coordinating action on general child protection issues. Other than where the Head Teacher also holds this role, the Designated Person should not take responsibility for managing allegations against staff.

**The Governing Body** – The Governors are responsible for ensuring that there are sufficient measures in place to safeguard the children in their establishment.

A **Nominated Governor** may act on behalf of the corporate body.

- The Nominated Governor liaises with the Head and Designated Person; ensures that an appropriate child protection policy and procedures are in place (which include allegations against staff); and presents an annual report on the child protection activity within the establishment.

- Where an allegation is made against the Head Teacher, the **Chair** takes responsibility for managing the case and for liaising with the LADO and investigative agencies. The Chair can also be the Nominated Governor,
- The Governor who takes responsibility for managing an allegation against the Head Teacher should not become part of any following disciplinary board on the same matter.

**Local Authority Designated Officer (LADO)**– This is the senior officer responsible for co-ordinating policy and action on child protection issues within educational establishments. In cases of allegations against staff, the LADO will have oversight of cases, offering advice and support to the Head Teacher and Governors. They will liaise with Police and Social Services as appropriate. This officer is also responsible for maintaining records relating to allegations against staff. Please note: *Working Together 2018* now refers to the LADO as the “Designated Offer”, but in line with the North West area, the title in Halton remains Local Authority Designated Officer

**Police** –The Police have a duty to investigate criminal offences committed against children. Such concerns involving the family, other carers or staff working with children, should be handled by the Police Child protection and Sexual Crime Unit. A senior officer will oversee cases involving staff and be responsible for ensuring effective liaison with other agencies.

**Social Care/Social Services** – Social Services have a duty to safeguard and promote the welfare of children in their area who are in need, and to make enquiries if they have reason to suspect a child is suffering or likely to suffer significant harm. There should be a senior officer who has oversight of cases involving professionals and ensuring effective liaison with other agencies.

**Personnel Officer/HR Provider** - This officer will offer advise and support to Head Teachers and Governors on issues related to employment i.e. recruitment, retention and disciplinary matters. They also have a role in providing investigative agencies with relevant personnel detail in cases of allegations against staff.

## Principles

The protection of pupils from abuse is the responsibility of all staff, the Head Teacher and Designated Person should ensure that staff and pupils are aware of how to report concerns of abuse and neglect.

Allegations or concerns made by or on behalf of a child should always be taken seriously and referred to the investigating agencies, as appropriate.

Investigations should be conducted in a way that recognises the vulnerability of both children and staff. Investigations must be dealt with quickly, fairly and impartially.

Halton Safeguarding Children Board's LADO procedures (available from [www.haltonsafeguarding.co.uk](http://www.haltonsafeguarding.co.uk)) should be followed in all cases where it is alleged that a member of staff 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

## **Safeguarding - Reducing the Risk**

We can be proactive in reducing the risk of child abuse taking place and in reducing the vulnerability of staff to unfounded allegations by:

- Developing a safeguarding ethos in which pupils and staff can express their concerns; staff are encouraged to offer constructive challenge; and where Whistle-blowing procedures can be engaged without fear. This means that safeguarding policies and procedures are accessible to all and there are means for communication and access to skilled advice.
- Adopting safe recruitment and termination of employment practices.
- Ensuring that all staff receive appropriate training in child protection – signs/symptoms and referral procedures – as well as procedures in responding to allegations against staff.
- Ensuring that staff understand what is safe practice and what is not. In particular, staff must be aware of behaviours that are likely to bring about criminal, child protection or disciplinary action. All staff therefore, should be provided with clear and relevant codes of conduct – wherever possible tailored to the specific tasks they undertake.
- Ensuring that vulnerabilities expressed by staff are taken seriously and responded to at the earliest stage.
- Conducting risk assessments following allegations to reduce the likelihood of repetition.

## **Initial action by person to whom a concern or allegation is reported**

Concerns or allegations may be brought to the attention of a member of staff in various ways. A child might make a disclosure directly about another member of staff; a parent or other adult may report a concern about what they say they have seen or have been told by a child; or the member of staff might observe an event or behaviour that causes them concern.

## **Listening to a child/young person making an allegation**

### **Essential action for the person receiving the concern:**

- Listen carefully to the child.
- Where necessary, only seek to gain clarification of what is being implied or alleged.
- Do not investigate any matter that may require child protection or criminal investigations.
- Avoid asking leading questions.
- Avoid interrupting a child when he/she is recalling significant events.
- Avoid making assumptions about what the child has said, or by suggesting alternative explanations for their concern

### **Confidentiality**

Staff should not promise total confidentiality to pupils/adults who make allegations. They should inform them that this information will only be given to those who need to know. If possible, identify who these people are likely to be. Keep an open mind and do not allow preconceptions about the child or member of staff to influence your actions.

### **Immediate Support**

Reassure the child or adult that their allegation will be taken seriously and explain that you will inform the Head Teacher. If approached by the child themselves, ask them where they want to wait and with whom they would like to be, whilst you inform the Head Teacher. Ensure that the child is separated from the person being accused, without informing anyone else of the actual reason.

### **Recording**

Record all the information – including times, place, those present and what was said. Where a child has disclosed a concern, the child's own words should be noted. Sign and date the record. Any subsequent action must also be recorded.

### **Reporting**

**Report the matter to the Head Teacher immediately or if unavailable, the Deputy. If the concern/allegation is about the Head Teacher, report the matter to the Chair of Governors or Deputy Chair.** Provide them with a written report as soon as possible, but do not let this delay your verbal reporting. If unable to contact any of these people, consult the LADO.

### **Initial Action by the Head Teacher /Chair of Governors /Senior Manager**

Record details provided, including times, dates, location of incident and names of any potential witnesses. Obtain a written report from the member of staff who received the concern.

Further clarification from the child may be sought if necessary, but this should be restricted to confirming that an allegation has been made, what it is, where it was alleged to have occurred and whom it concerns.

No attempt should be made to interview the child, the member of staff concerned, or potential witnesses. Attempts to establish the truth, however well intentioned, can seriously contaminate evidence for any subsequent investigation.

Record all decisions with their justification – even when a decision to take no further action is made.

## Initial Considerations

Where an allegation has been made or there is doubt about whether it justifies further action, consultation must take place between the Head Teacher and the LADO.

All allegations must be recorded clearly and accurately. Copies of documents relating to the incident and referral details must be forwarded to the LADO.

Only those cases which are trivial or demonstrably false at the outset can be dealt with internally by the school. Even in these cases, it may be advisable to consult the LADO about action plans to address any behavioural problems with a pupil and to minimize further risk to staff.

All discussions with the LADO should be recorded, including any decisions made, along with their justification. The LADO will keep corresponding case records.

The LADO may require further information, which could necessitate asking minimal questions, if these had not already been established i.e.

- was the pupil in school on that day?
- could the pupil have had contact with the member of staff?
- Are there any potential witnesses?

Remember that such communications should be limited to achieving clarification and not amount to an interview with any party.

The Head Teacher and LADO must consider the allegation and determine the appropriate way forward.

**It is important to recognise that establishing whether an allegation warrants further investigation is not the same thing as deciding whether an allegation is founded.**

## Options

Consultation with the LADO will help to decide between the following actions:

- An immediate referral to the joint agencies (Police and SSD) under local Child Protection Procedures.
- Further local enquiries to be made to gather more information
- The allegation may have been prompted by inappropriate behaviour by the member of staff but does not amount to a child protection concern. In this case, consideration under local disciplinary procedures might follow.
- The allegation was apparently without foundation. This situation might arise out of misunderstanding, maliciousness or possibly abuse occurring elsewhere in the child's life. The former two positions require action on the part of the school to minimise further risk to staff and where appropriate, address the pupil's behaviour. The latter will require further exploration by investigative agencies.

## **Allegations requiring immediate referral to the Child Protection Agencies (Police and Social Services)**

Where a pupil has suffered, is suffering, or is likely to suffer significant harm, Social Services/Care have a duty to make enquiries in order to protect the child. The harm may be of a physical, sexual, or emotional nature, or as a result of neglect.

Where it is alleged that a criminal offence has been committed against a pupil, the police will be required to make any necessary enquiries. Any physical assault (including threat of) may constitute a criminal offence and consequently the threshold of significant harm does not always need to be met. A school will not be obliged to refer trivial allegations, but will need to justify their position, particularly if the child or those with parental responsibility choose to pursue their concern directly with the police.

### **Referral**

Where the Head Teacher and the LADO decide that the allegation needs to be referred as a child protection matter, the LADO should ensure that this is done. A telephone referral should be made to Social Care/Services and confirmed in writing within 48 hours.

Social Care should acknowledge the written referral within one working day of receipt. They should be contacted if acknowledgement has not been received.

Any internal disciplinary investigation should be held in abeyance pending the outcome of police and social services investigations. This is to avoid contamination of evidence. (NB There are rare exceptions to this rule, but agreement **must** be obtained from these agencies and in some cases the CPS too).

### **Strategy Discussion**

Following a referral to Social Care a Strategy Discussion will take place between them and the Police usually within 48 hours. In most cases this should take the form of a meeting and also involve representatives from education including the LADO, Head Teacher/Manager, Human Resources Officer.

The purpose of this meeting will be to share information and decide whether a child protection and/or criminal investigation is necessary.

If an investigation is to take place, or further enquiries are to be made, the meeting will decide how this is to be done e.g. who to interview, when and how.

The meeting will also be required to make a recommendation as to whether the member of staff should be suspended whilst investigations take place. The decision to suspend however, rests with the Head/Governing Body.

Any investigation will need to take place within the wider context of assessing the child's needs. Consequently, those representing education, and the Designated Person in particular, will also have a crucial part to play in identifying and responding to these needs.

### **Notification of Interested Persons**

The police may decide that enquiries might be hindered by an early approach to parties, or that certain information should not be divulged to them. The Head Teacher/Governor and LADO should therefore ensure there is no objection by the police before contacting any parties. They may also wish to consult Social Care on how best to inform the child/parents.

Subject to there being no objection, the Head Teacher/Governor should inform:

- The parent (and where appropriate the child) to explain the action taken by the school/establishment e.g. referred to social care/police.
- The accused member of staff to explain wherever possible, the likely course of action. At this early stage, it is advisable to explain only that an allegation of a child protection nature has been made. The detail of the allegation can be explained by the investigating agencies.
- The Chair of Governors. At this stage only general information should be shared i.e. that an allegation has been made and whom it concerns - unless the allegation has been made against the Head Teacher, in which case the Chair or Vice Chair will need to be further involved.
- The director of the agency if the member of staff has been employed through an agency.

Where investigative agencies have objection to information being shared, it is the responsibility of the LADO to arrange regular review of this decision.

**Information should not be withheld from the member of staff concerned without good reason.**

### **Member of staff's own children and out of school activities involving Children**

If an accused member of staff has children of their own, or it is known that they are involved in out of school activities that involve children, then consideration of risk to these children must also be given.

If these children reside outside of this authority, or the activities with children occur outside of this authority, then it is the responsibility of local investigative agencies to notify their counterparts in the other authorities concerned.

Where child protection concerns occur within the member of staff's own family, there may be implications for children in their place of work too. In these circumstances consult the LADO and see example 'Protocol For Child Protection Concerns Relating To Parents/Carers Who Work With Children'

[www.teachernet.gov.uk/docbank/index.cfm?id=6466](http://www.teachernet.gov.uk/docbank/index.cfm?id=6466)

### **Suspension from work and alternative duties**

The decision whether to suspend the member of staff whilst investigations take place rests with the Head Teacher and/or Governing Body. They should however, make an informed decision by seeking a recommendation from the Strategy Meeting.

**When allegations have been made, suspension should not be an automatic response.**

Suspension is not only a traumatic experience for the individual concerned, but also for their family, other children at the school, their parents and the school community. The following criteria should be met in order to justify the suspension of a member of staff in education:

- where a child or children is/are at risk of significant harm.
- where the allegations are so serious that dismissal for gross misconduct is possible.
- where a suspension is necessary to allow the conduct of the investigation to proceed unimpeded.

The case manager should 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 should be as inventive as possible to avoid suspension. Based on assessment of risk, the following alternatives should be considered by the case manager before suspending a member of staff:

- redeployment within the school or college so that the individual does not have direct contact with the child or children concerned;
- providing an assistant to be present when the individual has contact with children;
- redeploying to alternative work in the school or college so the individual 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; or
- temporarily redeploying the member of staff to another role in a different location, for example to an alternative school or college or work for the local authority or academy trust.

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 should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended.

Suspension may be considered at any stage of an investigation. It is a neutral act, not a disciplinary sanction and will be on full pay

Where suspension is considered, the rationale and justification for such a course of action should be agreed and recorded by both the case manager and the LADO. This should also include what alternatives to suspension have been considered and why they were rejected. The Head Teacher should arrange an interview with the member of staff outside pupil contact time wherever possible.

Prior to the interview, the Head Teacher should advise the member of staff that he/she may be assisted by a union representative or friend with whom he/she can have a brief meeting before the interview.

At the outset of the interview, the Head Teacher should inform the member of staff that an allegation has been made and at the conclusion of the interview there may be a decision to suspend, whilst further investigation takes place.

The member of staff should also be told:

- that this interview is not a formal disciplinary hearing or examination of the evidence, but an opportunity to make representations after the reasons for any proposed suspension have been given.
- that he/she may have a brief adjournment prior to giving a response.

The member of staff should be provided with as much information as is consistent with not interfering with an investigation about the allegation. Advice should be sought from the investigating authorities and LADO in advance of this meeting.

### **Immediate action following suspension**

If, as a result of the interview, suspension is considered necessary, the Head Teacher should advise the member of staff and confirm the decision and reason in writing within one working day.

The Head Teacher should inform the Chair of Governors and the local Authority formally in writing that a member of staff has been suspended. (The Chair of Governors should inform the Local Authority if a Head Teacher has been suspended). The Head Teacher should send a report to the Governing Body informing them that a member of staff has been suspended. The report should only contain minimum information to avoid prejudicing their impartiality in any subsequent hearing or appeal in disciplinary proceedings.

### **Persons to be informed of the suspension**

- The pupil or parent making the allegation should be informed of the suspension and asked to maintain confidentiality. Where the pupil is under 18, his/her parent should also be informed if consistent with wider child protection considerations. Parents and carers should also be made aware of the prohibition on reporting or publishing allegations about teachers in section 141F of the Education Act 2002.
- Senior members of staff should be informed of the reasons for suspension but only as far as necessary. Generally, this should only mean informing staff that

an allegation has been made and whom it concerns. Further detail should normally be withheld.

- The Head Teacher should also consider whether it is necessary to inform other members of staff. Advice should be sought from the LADO and Strategy Group on this matter.
- In certain circumstances, the Head Teacher may need to provide immediate reassurance to parents and children. Again, advice should be sought from the LADO and Strategy Group on this matter. Any action should be considered against the need to avoid unwelcome publicity. In such cases, a media strategy meeting should be held, involving the Strategy Group, Senior Management and advice sought from the communications officers of the Local Authority and/or Police.

### **Review of suspension**

All suspensions must be kept under constant review and are subject to a formal review with the staff member and his/her professional association/union after one month. The aim should be to ensure that suspensions are kept as short as possible.

For further guidance on deciding upon and managing suspensions see [www.teachernet.gov.uk/docbank/index.cfm?id=6237](http://www.teachernet.gov.uk/docbank/index.cfm?id=6237)

### **Suspension of a governor**

In certain prescribed circumstances the governing body can decide to suspend a governor for a period of up to 6 months – but it does not have to do so (School Governance procedures – England – Regulations 2003). The governing body can only suspend a governor if one or more of the following grounds apply:

- The governor is paid to work at the school and is the subject of disciplinary proceedings in relation to his/her employment;
- The governor is the subject of any court or tribunal proceedings, the outcome of which may be that he is disqualified from continuing to hold office as a governor under schedule 6 of the regulations; or
- The governor has acted in a way that is inconsistent with the schools ethos or with the religious character and has brought or is likely to bring the school or the governing body or his office of governor into disrepute;

or

- A governor is in breach of his duty of confidentiality to the school or to the staff or to the pupils.

### **Support for the Accused Member of Staff**

Whether the member of staff is suspended or not, the impact of being subjected to child protection and/or criminal enquiries should not be underestimated. Employers have a duty of care to their staff and therefore the offer of appropriate support is

essential. For many staff, social networks can be substantially linked with their work. If restrictions on contact are made, extra careful consideration should be given to lines of support.

Recommended supports:

- A link person should be identified to keep the member of staff up to date with the development of the investigations. The link person will need to confirm with the investigating agencies what information can be shared and ensure that information is not withheld without good reason, or that there is unnecessary delay in the sharing of information. The link person can also explain the processes if the member of staff is unfamiliar with how allegations against staff are normally managed.
- The member of staff should be advised to seek help from their union or professional organisation if they hold membership. This should be viewed as additional support and not as a substitute for the employer's own duty of care.
- Confidential counselling should be offered via Occupational Health or HR provision.
- The member of staff can also be reminded to use the services of their own GP.
- Where the member of staff has been suspended or offered duties away from school, a senior colleague should be identified to keep them up to date with events. This person must be directed not discuss the investigation, but their day to day news of school matters will help reduce feelings of isolation and should assist with reintegration, if appropriate at a later date.
- The distress caused by an allegation is likely to mean that significant information might not be absorbed by the accused member of staff, particularly when they are first told. It is advisable to provide the member of staff with written information which they can take away to digest by themselves or to guide family or friends.

### **Action during child protection/criminal investigations**

Staff have a duty to assist the police and social services with child protection enquiries.

Police should not normally conduct interviews on school premises, but where this is necessary, the interviews should be conducted at reasonable times.

Staff must maintain confidentiality about the enquiry, other than fulfilling their obligation to assist police and social services.

The LADO should maintain records for each case and monitor progress by seeking regular updates from the investigating agencies, and where appropriate the Crown Prosecution Service.

The LADO should also clarify what information can be shared with the member of staff concerned, to ensure regular briefings

### **Action following child protection/criminal investigations**

The police or the Crown Prosecution Service (CPS) 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

should 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.

### **Where criminal or child protection actions are not required**

Where the strategy discussion decides that a child protection or criminal investigation is not required, the Head Teacher, in consultation with the LADO and the Human Resources Officer, should consider whether to:

- Take no further internal action.
- Issue an informal warning and/or professional advice.
- Instigate an investigation under disciplinary procedures.

### **Resignations and Compromise Agreements**

If the accused person resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with this guidance. It is important that every effort is 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 '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 these cases. Such an agreement will not prevent a thorough police investigation where that is appropriate. Nor can it override the statutory duty to make a referral to the Disclosure and Barring Service (DBS) where circumstances require that.

### **No further action**

If it is decided that no further action should be taken, the Head Teacher, in consultation with the LADO and Human Resources Officers, should inform the member of staff orally and in writing – confirming that no action under disciplinary or child protection procedures will be taken. In advance of meeting the member of staff, they should be advised that they may be accompanied by a friend or union representative. A record of this decision and the actions taken must be kept by all parties.

Consideration should be given to the provision of support or counselling for the member of staff concerned.

The Head Teacher, in consultation with the LADO should inform the child and Parents of the outcome. If dissatisfied, they should be advised of the Council's Complaints Procedure.

Consideration should be given to the provision of support for the child, and where appropriate, the parents.

Where no further action has been decided because the allegation was demonstrably false and malicious intent was **evidenced**, a plan to address the child's behaviour should be agreed, with the involvement of those with parental responsibility.

Allegations that are found to be malicious should be removed from personnel records; and any that are unsubstantiated, are unfounded or malicious should not be referred to in employer references.

### **Issue an informal warning and/or professional advice**

Where it is considered appropriate to offer an informal warning or words of advice, consultation should take place with Human Resources and LADO. The member of staff should be informed orally and in writing. In advance of meeting the member of staff, they should be advised that they may be accompanied by a friend or union representative.

A record of the decision and advice/warning given must be kept by all parties. Any additional guidance or training required should be recorded and acted upon. The child and parents should only be informed that the matter has been taken seriously and that it is being dealt with in accordance with the correct internal procedures. Further information and outcomes remain confidential and should not be released.

### **Instigating an investigation under disciplinary procedures**

If it is decided that a disciplinary investigation should take place, the Head Teacher, in consultation with the LADO and Human Resources Manager, should appoint someone to conduct the investigation.

A written record of the outcome of any disciplinary investigation must be retained indefinitely on the member of staff's personal and confidential file.

If the member of staff is dismissed, he/she should be informed about the employer's statutory duty to report their case to the Teaching Agency, for consideration of debarring from further employment with children.

If the employee resigns before the disciplinary process is completed, the employer is not obliged to accept the resignation and appropriate attempts should be made to complete the process, so that the matter can be brought to a proper conclusion.

Where a pupil has made an allegation, a copy of the statement or the record made of it should be kept on the section of a pupil's file, which is not open to general disclosure,

together with a written record of the outcome of the investigation. If there are related child protection concerns, records may be subject to disclosure; and, therefore, no assurances can be given regarding total confidentiality.

## **Agency Staff and Volunteers**

Where a concern of a child protection nature is alleged in relation to a supply teacher/worker (from an agency or self employed), trainee teacher or a volunteer, the matter should be dealt with in the same way as employed staff.

Where there are related concerns of a conduct or competency nature, it is the responsibility of the head Teacher, in conjunction with the LADO and Human Resources Manager, to deal with the matter in accordance with the school's disciplinary procedure.

Liaison with a senior representative of an agent supplying a member of staff should also take place. The agent may be required to conduct an additional disciplinary investigation in accordance with its own procedures, or take precautionary action whilst the school undertakes its investigation e.g. suspend from other positions.

An agent might include, for example:

- An employment agency providing supply teachers/workers.
- A training college placing a trainee teacher at a school as part of PGCE course.
- A contractor providing services such as catering.
- A voluntary organisation providing people to work with children.

## **Action on Conclusion of the Case**

If the allegation is substantiated and the person is dismissed / the employer decides that they are unsuitable to continue within their professional role for the organisation and ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the employer must refer to the DBS. A copy of the referral will be forwarded to the LADO for their records and the confirmation letter issued by the DBS will also be shared with the LADO.

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. The DBS will consider whether to bar the person from working in regulated activity, which will include most work in schools and other educational establishments. Local authorities, schools, FE colleges 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.

Professional misconduct cases should be referred to the relevant regulatory body. For teachers this is the Teaching regulation Agency (TRA), who also have jurisdiction to consider information amounting to relevant conduct and conduct giving rise to risk of harm.

Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the case manager should consider how best to facilitate that. Most people 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 the provision of a mentor to provide assistance and support in the short term may be appropriate. The case manager 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.

### **Definitions used when determining the outcome of allegation investigations:**

- a. **Substantiated:** there is sufficient identifiable evidence to prove the allegation;
- b. **False:** there is sufficient evidence to disprove the allegation;
- c. **Malicious:** there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false;
- d. **Unfounded:** there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances;
- e. **Unsubstantiated:** this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

### **Managing the Aftermath**

Whether an allegation has been founded, unfounded or unsubstantiated, a debriefing involving the school, LEA and where appropriate investigative agencies should take place.

The impact on individuals concerned and the general morale within the school should be considered so that additional supports can be put in place.

Risk assessments should also be considered in relation to any practices which have made either staff or children vulnerable.

The Crown Prosecution Service published guidance for the police on harassment under the Protection from Harassment Act 1997. This can be found at:

[http://www.cps.gov.uk/legal/s\\_to\\_u/stalking\\_and\\_harassment/index.html](http://www.cps.gov.uk/legal/s_to_u/stalking_and_harassment/index.html)

Guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on employment retention.

[http://www.ico.gov.uk/upload/documents/library/data\\_protection/detailed\\_special\\_list\\_guides/employment\\_practices\\_code.pdf](http://www.ico.gov.uk/upload/documents/library/data_protection/detailed_special_list_guides/employment_practices_code.pdf)

[http://www.ico.gov.uk/for\\_organisations/data\\_protection/the\\_guide.aspx](http://www.ico.gov.uk/for_organisations/data_protection/the_guide.aspx)

Guidance on how to make a referral to the DBS is at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/279926/dbs-referral-form-guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/279926/dbs-referral-form-guidance.pdf)

For more detailed guidance on managing the aftermath of an allegation see

[www.teachernet.gov.uk/docbank/index.dfm?id=6236](http://www.teachernet.gov.uk/docbank/index.dfm?id=6236)

**For information on checking the barred from teaching list:**

<https://www.gov.uk/teacher-status-checks-information-for-employers>