

SECTION 4 – Allegations of Abuse against Teachers and other Staff

Introduction

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

The following guidance draws heavily on the respective guidelines developed by the **Council for Local Education Authorities (CLEA)** in consultation with Teacher Associations, and the **Tameside Local Safeguarding Children Board (LSCB)**, the latter of which is the body locally required by law to oversee inter-agency child protection, and complies with guidance from the Department for Education and Skills.

All staff and volunteers should understand what to do if they receive an allegation against a member of staff or if they themselves have concerns about the behaviour of another member of staff. All allegations should be reported straight away, normally to the headteacher.

- Where allegations concern a **headteacher**, the **Chair of Governors** would fulfil the corresponding functions that the headteacher undertakes in respect of teachers, other staff and volunteers.
- Where allegations concern **teachers in support services**, the **Head of the Service** would be the relevant line manager to undertake enquiries and consultations.
- Where the **Head of the Service** was the specific subject of the allegations, the Director of Children's Services, as appropriate, would pursue that role.
- Any reference in the document to the functions of the headteacher applies accordingly.

In some circumstances there will be a need to act jointly with another organisation, for example where an allegation is made against a supply teacher. Where there is no direct employment relationship with the individual, there is still a need to co-operate in an investigation, and reach a decision.

The Head of Access and Equality is the designated Local Authority officer [LA officer] responsible for providing advice and monitoring cases.

In the case of volunteers, the principles of this procedure should equally apply.

The Purpose of the Procedures

Whilst all allegations of abuse of children and young people by staff should be taken seriously and appropriately investigated, teachers and other staff have a right to expect that complaints about their behaviour will be investigated professionally and impartially, and as confidentially and quickly as circumstances will allow.

These procedures provide a safeguard for all staff by ensuring that any complaints are properly investigated and if necessary, school staff disciplinary procedures commenced. They will assist headteachers, Governing Bodies and the Local Education Authority to ensure that any allegations are dealt with appropriately.

The Scope of these Procedures

It is anticipated that Child Protection Procedures will be invoked rarely. Similarly, whilst malicious reports of abuse of children and young people are rare, it is important that investigating officers remain open to the possibility that the allegations may be unfounded.

Only in circumstances in which it is believed the child has suffered or is likely to suffer significant harm will the Child Protection Procedures be invoked. [see guidelines in Child Protection handbook on the definition of significant harm, also practical examples within this document]. However once a decision is made to use these procedures the process of the investigation will be the same as when parents or carers in the community are investigated in similar circumstances.

There will be circumstances in which children may be handled roughly or treated inappropriately, but this treatment will potentially fall below the threshold of significant harm. Allegations regarding children in such circumstances should be taken seriously and dealt with, outside the Child Protection Procedures, either by the child's parents or those with parental responsibility or by those acting in loco parentis (where children are looked after by the Local Authority). When cases are managed in this way this does not preclude the child and/or the child's parents from making a complaint either to the responsible Authority or directly to the Police.

In order to make the distinction between what should be investigated under the Child Protection Procedures and what should be dealt with in a less formal way the following guidance may be helpful.

There can be no definitive criteria for determining whether a child protection investigation is necessary, as each case will need to be judged on its merits. However the following three categories are offered as a guide to those who are required to exercise professional judgement upon the most appropriate course of action:

- (a) Behaviour which, even if proven, falls within permitted limits as defined in professional or departmental codes of practice and in respect of which no further action will be required.
- (b) Behaviour which, if proven, although inappropriate or unacceptable would not normally be regarded as abusive and may be dealt with informally or in accordance with school staff disciplinary procedures.
- (c) Behaviour which by its nature or by virtue of the circumstances under which it allegedly occurs ought properly to be regarded as abusive or potentially abusive and which should be dealt with in accordance with Child Protection Procedures. Such behaviour may also constitute misconduct or gross misconduct and may need to be dealt with under school staff disciplinary procedures also.

The following table provides some examples of the types of behaviour, which may fall into one or other of the three categories referred to previously. It is intended only as a guide and it must be emphasised that every situation should be considered on its merits and the behaviour, which is observed or reported, should be considered in the context in which it occurs. Broadly however, the threshold of significant harm and the likely invocation of the Child Protection procedures will occur at a point within the continuum of the second and third levels.

	PHYSICAL	SEXUAL	EMOTIONAL
BEHAVIOUR FALLING WITHIN PERMITTED LIMITS	Physical restraint within permitted limits in circumstances where it is necessary for the protection of the safety of others.	There can be no permissible behaviour which either implicitly or explicitly has sexual connotations	Children should always be treated with dignity, respect and positive regard. However occasional admonition or criticism may be permissible.
INAPPROPRIATE OR UNACCEPTABLE BEHAVIOUR	Verbal abuse and/or threatening words or behaviour. Excessive use of force in control and restraint situations.	Lack of proper regard for privacy. Suggestive remarks, jokes, etc. Physical contact which although not overtly sexual, makes the child feel uncomfortable.	Persistent admonition, direct insults, severe criticism, shaming and embarrassing behaviour. The persistent use of scorn and ridicule.
ABUSIVE OR POTENTIALLY ABUSIVE BEHAVIOUR	Persistently inappropriate behaviour of the type referred to above. Deliberately assaultive behaviour (Corporal punishment or other assaultive behaviour which results in a persisting bruise or laceration would almost certainly constitute prima facie evidence of a criminal offence).	Persistently inappropriate behaviour of the type referred to above. Any overtly sexual contact. (This latter category would almost certainly constitute a criminal offence).	Cross examples of the above, and including persistent and sexist behaviours or language.

4.1. What To Do If An Allegation Is Made

Listening to Children and Young People

Children who report that they have been abused by an adult, must be listened to and heard, whatever form their attempts to communicate their worries takes. Listened to means just that; **on no account should suggestions be made to children as to alternative explanations for their worries.**

Staff cannot promise total confidentiality to pupils who make allegations. However, a staff member, hearing an allegation against another staff member should aim to involve the child in any decision to take the allegation further, which could result in following formal procedures based on these guidelines. Where a child says he or she does not wish to take the matter further, very careful consideration should be given to the age and understanding of the child and whether the child or others may be at risk of significant harm. The principles and issues implicit in the foregoing sentence should be discussed with the headteacher and/or designated Child Protection Liaison Person in the school. Teachers and staff should make it clear to pupils or parents who approach them asking for complete confidentiality that, in some circumstances, they would be bound to pass on what they were told and record these details. Staff should take any further steps as may be necessary to ensure child protection under the local procedures agreed by the Local Safeguarding Children's Board.

Receipt of Allegations

Where possible, any allegations made should be obtained in writing, signed and dated. In the case of allegations made by young children and anyone with special educational needs it is acknowledged that a written account may not be possible. In such cases the person receiving the complaint or allegation should make an account in writing of the discussion with the complainant. The account should cover all the relevant points made by the complainant and be signed and dated by the person receiving the complaint.

Any complaints/allegations about teachers, staff or volunteers should be made to the headteacher of the school. The Headteacher should remind parents/pupils of the need for confidentiality at this stage.

Headteachers should seek advice from the LA designated officer immediately **any** allegation is received that indicate that a member of staff in a school [including a volunteer] 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 s/he is unsuitable to work with children

Any complaints/allegations about a headteacher should be made either to the Chair of Governors or the LA designated officer.

Any complaints/allegations received about a headteacher by a Chair of Governors should be referred immediately for consultation purposes to the LA designated officer, or in his/her absence, the Director of Children's Services or Principal Education Welfare Officer.

None of these methods of submitting a complaint precludes the rights of the parent or pupil to complain directly to the police or Social Care on their own behalf. In these circumstances, the designated L A officer would be informed and communicate with the school, as appropriate.

Once an allegation is received it is important that basic fact-finding and subsequent investigations are undertaken speedily by appropriate parties, normally a senior member of staff, desirably within one working day, so that the facts are fresh in the minds of any witnesses.

When it is deemed that it is appropriate to inform the member of staff against whom an allegation has been made, the member of staff should be advised to contact their Trade Union/Professional Association.

It is important to acknowledge the special position of union representatives. Any problems involving such staff should be discussed with the local secretary or full time official. Such an approach should normally be made before any investigation begins. When a member of staff is informed of an allegation, they should be advised to contact their union local secretary.

Urgent Initial Consideration of Whether There is Substance in an Allegation

Where an allegation is made against a member of staff or volunteer, there should be an urgent initial consideration by the headteacher in liaison with the designated LA officer, desirably on the same day the allegation is received, of whether or not **there is sufficient substance in an allegation to warrant an investigation.**

Early action to establish the nature of the allegation and consideration of whether it should be investigated should be undertaken in such a way that it does not prejudice any such subsequent action. There must be no interference with evidence.

Immediately an allegation is made, the headteacher should consider and initiate as necessary the following action:

- Obtain details of the allegation if possible in writing, signed and dated by the person who receives the allegation (not the child who is the subject of the allegation) and countersigned and dated by the headteacher or designated child protection person.
- Record any information about times, dates, locations and names of potential witnesses.
- It is also important to recognise that establishing whether an allegation warrants further investigation is not to form a view on whether the allegation is to be believed. A headteacher is expected to consider, in consultation with the designated LA officer, whether the allegation requires further investigation and if so, by whom.

Only if the allegation were trivial or demonstrably false, would a further investigation not be warranted. Any subsequent investigation of all the facts will be aimed at establishing whether the allegation can be substantiated.

There will be one of four possible outcomes of this consideration:

1. that the allegation is apparently without foundation;
2. that the allegation was prompted by inappropriate behaviour which needs to be considered under the school staff disciplinary procedures;
3. that the threshold of 'significant harm' is not reached, but a police investigation might be needed; [this would apply in any case in which a criminal offence may have been committed]
4. there is reason to suppose abuse could have occurred and that referral under the local child protection procedure (in all cases of sexual abuse allegations) or under internal disciplinary procedures may be necessary;

An initial evaluation would be undertaken, by the designated LA officer, in the case of point 3, in consultation with Social Care and the Police. An immediate referral under the local child protection procedure would be made in the case of point 4.

Allegation Which Calls for Immediate Referral to Social Services

The immediate priority must be to determine whether there is sufficient substance in an allegation of abuse to warrant an investigation or whether a child or children are otherwise at risk of significant harm and in need of protection. If this appears to be the case there should be an urgent referral by the designated LA officer in accordance with the agreed procedures established by the LSCB.

Subsequent action will be in accordance with the local child protection procedures.

4.2. Investigations Under Child Protection Procedures

In cases where the decision is to investigate under the Child Protection Procedures a Strategy Group will be created which will remain extant for the life of the investigation. This group should comprise, the headteacher [or Chair of Governors where the allegation concerns the headteacher], the LA designated officer, the Duty Manager (Social Services) and a representative from the Police Family Support Unit if a joint Police/Social Services Department investigation is to take place, and be chaired by the Conference and Review Unit. This group will take responsibility for the overall co-ordination of the investigation, i.e. how to proceed, including the timing of the investigation,

personnel involved, and will pay particular attention to how and when the alleged perpetrator is informed and whether or not there should be a recommendation to suspend. An important issue will be to balance the interests of the investigation with the need to minimise the stress to the teacher who may be wrongly accused of serious offences.

As a matter of principle the LSCB believes that parents should be informed as soon as possible when their child is subject to investigation under these procedures including the substance of the allegation and any action to be taken. This principle will however need to be set against the interests of the member of staff, who may be unaware of the allegations and reliant on the confidentiality of others for his/her safety. When the child is not looked after by the Local Authority, parents need to be consulted at the earliest opportunity and their wishes taken into account and respected. In these cases parents should be encouraged to co-operate with the child protection investigation in respect of the safety and welfare of their own child and possibly other children.

The same principles should apply to the young person him or herself subject to his or her age and understanding.

In some circumstances the school may need to advise parents of an incident involving their child straight away, for example if the child has been injured while at school, and requires medical treatment.

Should parents decide not to support action under Child Protection Procedures, agencies will need to consider in these circumstances whether any action needs to be taken in respect of the alleged perpetrator and other children.

If the investigation proceeds it will be carried out in line with the Child Protection Procedures and completed in a minimum time consistent with the interests of the child.

The process of the investigation must be carefully documented and the investigating personnel should be aware that although there may be no criminal proceedings the results of the investigation might form the basis for action under school staff disciplinary procedures.

The outcome of the investigation should be referred to the Strategy Group where the decision will be made about:

- (a) Any immediate protective action required in respect of the child and any action in respect of other children.
- (b) Whether there are grounds to consider recommending action under the school staff disciplinary procedures.
- (c) Whether a post-investigation review is required.

NB. None of the above precludes the right of the parent or the child to complain to the Local Authority or directly to the Police on their own behalf.

Post-Investigation Review

On completion of an investigation under the Child Protection Procedures which concludes that a child has suffered significant harm from abuse by a teacher, it will be the responsibility of the Manager, Conference and Review Unit, in consultation with the Strategy Group, to arrange a post investigation review at the earliest opportunity.

Post investigation reviews are different from child protection conferences and the member of staff who is the subject of the investigation, the child or the child's parents will not attend. Children's names will not be added to the Child Protection Register as a result of such reviews. If a child has

outstanding protection issues these will be addressed in the regular child protection conference arrangements.

The purpose of the review is to consider the results of the investigation and to determine whether any further action is necessary in relation to the following issues:

- (a) Whether there are any outstanding child protection issues in relation to the child who was the subject of the investigation.
- (b) Whether there are any outstanding child protection issues in relation to any other children.
- (c) Whether there are grounds to recommend action under the school staff disciplinary procedures.
- (d) Whether there are any issues of general concern, which require consideration by individual agencies

Whilst the review may make recommendations it will be for individual agencies to decide whether any further action is to be taken. The LA designated officer will review the circumstances of the case with the headteacher, to determine whether there are any improvements to be made to the school procedures or practice to help prevent similar events in the future.

Where action is to be taken under the school staff disciplinary procedures the information obtained during the investigation will be made available to the headteacher and the investigating officers may be called upon to give evidence to any subsequent disciplinary hearing.

It should not be necessary in connection with any school staff disciplinary procedures for there to be further interviews of the child and it would not be appropriate for the child to be required to give evidence in person at a disciplinary hearing.

The results of the review will be reported, at the earliest opportunity, to the alleged perpetrator, by the headteacher.

The results of the review should also be reported at the earliest opportunity to the child and to the child's parents or carers.

Police Involvement

In some cases the police might wish to interview the member of staff against whom the allegation is made before any approach is made by the headteacher. The police may act independently of the school, particularly where the alleged offence is unconnected to the professional life of a member of staff. Police officers should be given every assistance with their enquiries but confidentiality about the enquiries maintained in the interests of the member of staff.

When the police are involved, it would not normally be expected that police interviews would be undertaken on school premises and it would be expected that appointments normally made for such interviews occur at reasonable times.

In especially serious cases, where the police or the strategy group decides that the investigation would be hindered by an approach to the member of staff before the police have had an opportunity to undertake an initial investigation or to interview the member of staff, then the headteacher should be informed accordingly and arrangements made to enable him or her to be kept informed of progress.

Where the teacher is aware of the allegations or it is decided that he or she should be informed before the police interview, then it will be a matter for the headteacher, in association with the LA designated officer, to consider what action should be taken as an interim measure.

The member of staff should be strongly advised to seek immediate advice from their Trade Union/Professional Association/Legal Advisor before voluntarily attending a police interview.

4.3. Alternative Responses To The Initial Fact-Finding

Without Foundation

Where the headteacher in association with the LA designated officer believes that the allegation is without foundation, he or she should:

- consider whether the child might have been abused by someone else;
- inform the member of staff of the allegation and the fact that no further action is to be taken under disciplinary or child protection procedures. [the member of staff may be accompanied by a teacher organisation representative or work colleague];
- consider whether informal professional advice to the member of staff is appropriate and the form it might take;
- inform the parents of the child or children of the allegation and the outcome stressing the confidentiality of the matter; and
- consider appropriate counselling and support for the child or children who made the allegation(s) and, where appropriate, their parents;
- take appropriate measures where a malicious allegation seems to have been made;
- prepare a report, setting out clearly the reasons for coming to that conclusion.

Not Without Foundation and Requiring Further Investigation

Where it is agreed that further investigation is required, it becomes an internal matter for the headteacher in line with the school's own staff disciplinary procedures where appropriate.

The LSCB believes in principle that parents should be informed as soon as possible of any action to be taken. This action notwithstanding, parents should be advised that they have the right to make a formal complaint to the Police if they so wish.

Following on from the initial fact-finding investigation, an investigatory interview will be held with the member of staff concerned. This will not form part of the formal disciplinary procedure. A member of staff may be accompanied or represented by a teacher organisation /union representative or work colleague.

At the end of the investigation, a meeting should be arranged to inform the member of staff of the next stage.

The headteacher will indicate whether a disciplinary hearing will be necessary and, if so, the arrangements that will apply. If the outcome of the disciplinary hearing is a disciplinary warning, further action will be in accordance with the school's staff disciplinary procedures.

If the member of staff has been suspended during the investigations and it is not intended to proceed with any form of disciplinary action, the suspension should be lifted immediately by the appropriate body. The headteacher should meet the staff member to discuss the return to work.

Other than in the event of dismissal, the headteacher should provide the opportunity for informal counselling. This could be used to give appropriate guidance, support and reassurance and to help rebuild, where necessary, a person's confidence. There may also be a need for specific guidance, and sympathetic consideration may need to be given to other employment options, in consultation with the Local Education Authority.

On the conclusion of any investigation and any related disciplinary proceedings, the child or children who made the allegations and their parents should be informed of the outcome of the proceedings. This should be prior to the member of staff's return to school if he or she has been suspended. In some circumstances, where the broader disclosure of details of the outcome is being contemplated, advice should be sought from the LA designated officer. This may be for example, where the issues are of general importance, have become common knowledge or have been the subject of general gossip, and there is a need to provide accurate details for public information.

Appropriate counselling and support should be offered to the child or children who made the allegations and, where appropriate, their parents, by the time the member of staff returns to school. Alternatively appropriate measures may need to be taken where a malicious allegation may have been made.

4.4. Suspension

Considering Whether Suspension is Appropriate

Headteachers should not automatically suspend or recommend suspension of a member of staff against whom an allegation is made. Suspension is a neutral act. The headteacher should consult with the LA designated officer and Human Resources before a decision to suspend is taken. Suspension may be considered at any stage of an investigation.

Suspension should not be undertaken without good reason. Circumstances in which suspension properly occurs include:

- (a) where a child or children are at risk
- (b) where the allegations are so serious that dismissal for gross misconduct is possible
- (c) where following initial investigations it is considered there may be a serious case to answer
- (c) where it is necessary for the conduct of the investigation to proceed unimpeded.

The suspension of a member of staff should be undertaken in accordance with the Schools Disciplinary Procedure. Where at all possible, the member of staff should be afforded the right for representation at the point of their suspension from work. In all cases, the headteacher should advise the member of staff to seek assistance from his or her Trade Union/Professional Association or from a workplace colleague.

The member of staff should be given as much information, including reasons for any proposed suspension, as is consistent with not interfering with an investigation about the allegation

After a Decision to Suspend

Where a member of staff has been suspended, the headteacher should inform the Chair of Governors and Director of Children's Services of the suspension formally, in writing. The headteacher should report to the Suspension Committee of the governing body in accordance with the Schools Disciplinary Procedure. It is not advisable to provide more than the minimum information necessary to the governing body, as more than this would prejudice governors' impartiality in any subsequent hearing or appeal in disciplinary proceedings.

The Headteacher should carefully consider:

- whether the pupil/parent making the allegation should be confidentially informed that the member of staff will not be in school during the investigation
- whether it is necessary/appropriate to provide reassurance to parents and children in the school, having considered the sensitivity of the situation for all concerned.

The Headteacher should take advice from the LA designated officer on this matter.

Support for the Member of Staff During the Period of Suspension

The suspended member of staff or headteacher should be given the name of a Local Authority Officer as an information contact, and advised to contact their Trade Union/Professional Association. The main role of the contact person is to provide information as to the progress of the investigation.

Although it is the aim that all investigations should be conducted as speedily as possible consistent with establishing the full facts, arrangements should be made for the teacher, or his or her representative, to be contacted regularly with information on progress and developments on the case. These arrangements should not preclude the member of staff, or his or her representative, contacting those conducting the investigation at any time.

A staff contact should also be in a position to provide information about developments at the school in general, according to the needs and wishes of the member of staff to be kept informed.

In some cases, it may be appropriate to ask the member of staff whether welfare counselling or the support of the local authority's medical adviser would be helpful.

Support for Others Concerned

Support will be needed for the child or children making the allegations and their parents. Considerations should be given to the form such support should take. Consideration should also be given to what support may be needed for others at the school, both staff and pupils, according to the circumstances of the alleged abuse. In some cases, therapeutic counselling from expert sources may be necessary. Advice on this can be obtained via the LSCB.

Where No Action is taken to Suspend

The headteacher should outline the concerns and explain any action/process which is to be undertaken. The member of staff may be accompanied by a Trade Union/Professional Association or workplace colleague during any formal meetings. The headteacher should seek to establish what support, if any, is required. According to circumstances, appropriate counselling services should be considered.

If a member of staff has not been suspended but the headteacher has concerns about aspects of their conduct, a full investigation should be undertaken before making a decision about further action under disciplinary procedures.

4.5. Records

Documents relating to an investigation should be retained, together with a written record of the outcome of the investigation and, where disciplinary action has been taken, retained on a personal and confidential file of the member of staff in accordance with the school's staff disciplinary procedures. The school should forward the personal file to Human Resources when a member of staff leaves the school. The records should be retained at least until the member of staff has reached normal retirement age or for a period of ten years from the date of the allegation.

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 personal file that is not open to disclosure, together with a written record of the outcome of the investigation.

These procedures will apply even for unfounded allegations. However in these cases the records will clearly indicate the conclusions of the investigation (i.e. that the allegation was unfounded), and eligible individuals will have access to these, otherwise confidential, records. The member of staff should be informed of the outcome of the investigation, by the headteacher, in writing. Eligible individuals will be the member of staff, the child's parents, the LA designated officer, and senior officers of the statutory child protection investigation agencies.

If the allegation is substantiated and the person is dismissed or the school ceases to use the person's services, or the person resigns or otherwise ceases to provide his/her services, the school should discuss with a Human Resource Advisor, whether a referral for consideration of action by the GTC is required, or advisable, and the form and content of a referral.

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 personal file, which is not open to disclosure, together with a written record of the outcome of the investigation.