



## BROUGHTON HALL CATHOLIC HIGH SCHOOL

# DEALING WITH ALLEGATIONS OF A CHILD PROTECTION NATURE AGAINST STAFF

## GUIDANCE NOTE

### INTRODUCTION

1. It is regrettably the case that, in rare instances, education staff have been found to be responsible for child abuse. Given the daily contact with children, staff in schools are vulnerable to accusations of abuse. Such allegations may be false, malicious or misplaced and may be either deliberate or innocent of such intent. Regardless of the motives underlying any allegations, they may also be well-founded.
2. This guidance note deals with concerns relating to existing staff. Guidance on the safe recruitment of staff is contained in other documentation.
3. Under child protection regulations, allegations against staff of child abuse should not automatically be seen as a disciplinary matter. A multi-agency framework has been established locally to ensure a consistent and child-centered response is made to allegations of child abuse.
4. This guidance note sets out the preliminary actions that schools must take when dealing specifically with allegations against staff of a child protection nature.
5. It has been designed to filter out unfounded allegations and address all other concerns whilst minimizing the risk to children.
6. This guidance also takes into consideration the following legislation:
  - Keeping Children Safe in Education (DfE, 2015)
  - 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

### SCOPE

7. This guidance note should be read in conjunction with the LA and school's Child Protection Guidelines and Policy and the Keeping Children Safe in Education statutory guidance (DfE, 2015).
8. The guidance note applies to all staff employed at a school during any period when the school has a delegated budget and covers allegations relating to pupils on roll at the school or any child outside the school community.

9. The school must refer to this guidance note before taking any action in relation to dealing with allegations of a child protection nature. Failure to do so may result in a child(ren) remaining at risk and even school leaders being charged with preventing the course of justice.
10. The definition of allegations of a child protection nature for the purpose of this document refers to child abuse, which is recognised as meaning any of the following; a breach of trust as outlined in the Sexual Offences Act 2003; physical or emotional abuse, sexual harm or neglect either caused or not reasonably prevented. Such allegations may arise from concerns about over familiarity, use of reasonable force/control or reports of domestic violence in addition to intelligence shared by the police or social services. However, every situation must be considered on its merits.

## CONTEXT

11. The aim of this guidance note is to ensure children do not remain at risk, whilst also protecting the integrity of staff where allegations are proven unfounded.
12. Concerns of a child protection nature regarding existing staff may be raised through a variety of routes, including:
  - a) Intelligence shared by the police. Chief Constables are under an obligation to inform the Chief Education Officer, of the relevant LA, of any concerns they may develop through the course of their duties about the suitability of an employee to work with children.
  - b) Information shared by the Disclosure and Barring Service or Government Departments such as the DfE and Home Office that have a responsibility for vetting the suitability of individual adults to work with children. The school has a policy of requesting for enhanced DBS checks for all of its teaching staff. LA operates a policy of vetting existing employees working with children on a three yearly cycle. At any point during an employee's career, new information regarding their suitability may come to light.
  - c) Referrals from professionals working in Children's Services, such as an Local Authority Designated Officer (LADO) or a Council Social Worker, for example, from time to time employee's may have their own children placed on the "at risk" register following domestic incidents.
  - d) Complaints raised by parents/carers.
  - e) Disclosures made by the child themselves or another child(ren) on their behalf to an adult in the school in whom they have trust and confidence.
  - f) Disclosures made by ex-pupils of the school relating to a period of time when they were either on roll or had just left.
  - g) Concerns raised by other colleagues within the family of the school.
  - h) Allegations can also be made anonymously. Often schools are required to make a judgment about the validity of anonymous complaints; however, where the issues are of a child protection nature the safety of the child must be paramount.

## **PRINCIPLES**

13. The school will endeavour to provide a safe and secure environment for its pupils. From time to time the school may be required to undertake risk assessments on the hazards presented to children by members of staff.
14. The school will nominate a designated teacher and a Governor for child protection, each of whom will have access to appropriate training to support them in their roles.
15. All staff will be briefed in child protection matters and be aware of standards of acceptable professional behaviour in order to minimize the possibility of being challenged.
16. All staff will have access to this guidance note so that there is a common understanding of the principles behind it.
17. The school will carry out child protection risk assessments at any stage during the employment of an individual where there are concerns of over familiarity.
18. The child will always be listened to when making a disclosure.
19. The designated teacher for child protection or the adult to whom the child makes a disclosure will not ask questions of the child or make any judgments at this stage.
20. The employee against whom the allegation is made will not be presented with any details of the complaint at the early stage of disclosure or referral.

## **ROLES AND RESPONSIBILITIES**

21. The Headteacher or their nominee will be responsible for dealing with allegations made against staff.
22. The Chair of Governors or their nominee will be responsible for dealing with allegations made against the Headteacher.
23. The person responsible for dealing with an allegation against a member of staff must seek advice from the Local authority Designated Officer (LADO)\* before taking any steps following a disclosure or referral.

## **STAGE 1 - DISCLOSURES**

24. Children who report a concern to an adult in the school about a member of staff must be listened to and heard, whatever their attempts to communicate their worries take.
25. It is the professional duty of staff working with children to report any concerns or disclosures to the school's appropriate person straight away. The adult receiving the disclosures must not promise confidentiality to the child making the allegation, but reassure the child that the information will only be passed on to people who need to know about it.
26. The child should not be interviewed at this stage or asked to repeat the account. The adult receiving the disclosure should avoid asking questions particularly of a leading nature.
27. All information should be noted carefully, including details such as timing, setting, who was present and what was said, in the child's own words.

28. The adult receiving the disclosure should be aware that alleged incidents occurring on the internet carry equal importance to alleged incidents occurring in person. The internet and other information technology medium are being increasingly used for the sexual grooming of children and young people.
29. It is important for the adult not to make assumptions or attempt to interpret what the child is saying.
30. On no account should the adult make suggestions as an alternative explanation of the child's worries.
31. The adult receiving the disclosure should sign and date the written accounts as soon as practicable.
32. The written account should be immediately given to the Headteacher or, where the allegation is against the Headteacher, to the designated Child Protection Teacher. If in the latter case the designated Child Protection Teacher is the Headteacher the matter should be referred to the Chair of Governors.
33. On receiving the written account the first priority of the appropriate person will be to assess the support needs of the child and to ensure that the child is not at immediate risk.

## **STAGE 2 – DEALING WITH DISCLOSURES AND REFERRALS**

34. When the appropriate person receives a disclosure or a referral, such as those outlined in paragraph 12, they must notify the LA nominated Child Protection Officer on the same day, unless the referral has been made by the LA. If the LA designated officers are unavailable the concerns must be passed to another Senior LA Officer
35. The LA designated officer will determine in conjunction with the school's appropriate person, which of the following three categories the alleged incident may fall:
  - a) **Acceptable professional behaviour** – this may include the exercise of appropriate control and restraint within agreed guidelines\*.
  - b) **Unacceptable professional behaviour** – this includes behaviour, which falls short of abusive behaviour but that may require a response under the school's adopted disciplinary procedures.
  - c) **Abusive behaviour** - as outlined in paragraph 10 of this document.
36. Where the LA designated officer suspects that the allegation may represent abusive behaviour, contact with the Children's Quality Standards and Review Unit must be made.
37. Where the LA designated officer is unsure of the exact category into which the allegation may fall, advice will be sought from the Children's Quality Standards and Review Unit.
38. Where, following a preliminary investigation, the LA designated officer in conjunction with the appropriate person from the school determines that the allegation is demonstrably false by virtue of the fact that it would not be possible for the allegation to be true, the matter may be dealt with at school level. Schools should now access this procedure at Stage 4.
39. In circumstances where the LA designated officer determines that the matter falls into Category (a) of paragraph 35, schools should now access this procedure from Stage 4.
40. In circumstances where the LA designated officer determines to refer the matter to the Children's Quality Standards and Review Unit, the school must not take any further action regarding an investigation until it is advised it is safe to do so by the agency.

This includes informing the employee against whom the allegation has been made in case such action undermines any required police inquiries.

41. However, in addition to providing any necessary support to the child, the school should also undertake a risk assessment to determine whether or not the employee presents an ongoing hazard during the course of their normal duties at school.
42. If the risk assessment illustrates that the employee is an ongoing hazard, the school should judge whether the appropriate control will be to assign the employee different duties or ask the employee to refrain from work whilst the school awaits further advice from the Children's Quality and Review Unit.
43. An instruction to refrain from work at this stage will not constitute a formal suspension under the school's adopted disciplinary procedure and in these circumstances the employee will be entitled to their normal pay. An instruction to refrain from work should only be required until advice is received from the Children's Quality and Review Unit. At this early stage the employee will not be entitled to know the exact details of the allegation. In this situation, schools are strongly advised to seek support from the School Employment Advisory Team.

### **STAGE 3 – CHILDREN'S QUALITY AND REVIEW UNIT INPUT**

44. The Children's Quality Standards and Review Unit (CRU) will identify an appropriate manager to co-ordinate a child protection investigation in accordance with existing ACPC Child Protection Procedures.
45. The appropriate CRU Manager will agree preliminary work and information collation prior to arranging a strategy meeting with the relevant agencies.
46. In exceptional circumstances the CRU Manager may in consultation with the appropriate senior police officer determine that there are insufficient grounds to progress the referral to a strategy meeting. Such a decision will be recorded in accordance with existing Child Protection Guidelines. However, the matter may still need to be considered under the school's adopted disciplinary procedure, see Stages 5 and 6 of this document.
47. The strategy meeting will focus on three principal elements:
  - a) **Child Protection**
  - b) **Criminal Investigation**
  - c) **Disciplinary Investigation**
48. A core aspect of the CRU input will be an **initial risk assessment** to identify risks in respect of:
  - a) The immediate safety of any children in contact with the employee including children living in their home.
  - b) The need to formally suspend or place the employee on restricted duties.
49. The objectives of the strategic planning meeting will be:
  - a) To determine the need for a child protection investigation and/or address the needs of the alleged victim.
  - b) To agree the roles of the multi-agency partners in the investigation and plan their actions and a timescale, i.e. into matters of child protection, criminal investigation and/or disciplinary investigation.
  - c) To consider any identifiable risks to any children and specifically those at

- school and in the employees home.
- d) To assess whether or not to suspend the employee or place them on restricted duties.
  - e) To consider the need to inform relevant parties, for example, parents/carers.
50. The LA designated officer will attend any strategy meeting and may be accompanied by the school's appropriate person.
  51. Where the school is not represented at the strategic planning meeting, the LA designated officer will be responsible for advising the school of any action required.
  52. If the outcome of the strategy meeting is that a police investigation will take place the school will not commence an investigation of its own until the police have advised that it is safe to do so.
  53. If the outcome of the strategy meeting is that there is no need for a child protection or criminal investigation, consideration will then be given as to whether or not there are any recommendations necessary relating to a referral under the school's disciplinary procedure. In this situation schools should refer to Stages 5 and 6 of this procedure.
  54. The need for a strategy meeting will be considered initially and at any time in the future should further information emerge.
  55. Where it is determined that there is no case to answer, a confidential record of the matter will be held securely on a database that will allow the cross referencing of either individuals, establishments or alleged victims\*.

*\* It is anticipated that further guidance on this area may be produced following the recommendations of the Bichard Inquiry – July 2004.*

#### **STAGE 4 – ALLEGATIONS WITHOUT FOUNDATION**

56. Where it has been determined that an allegation is without foundation, the school must consider whether an obviously false allegation is a strong indicator of abuse elsewhere. Any such concerns should still be referred to the CRU solely on the basis of child protection.
57. The employee should be informed both orally and in writing of the allegation and the fact that no further action will be taken under disciplinary or child protection procedures in relation to themselves. The employee may be accompanied by a person of his or her choice at any such meeting.
58. The school will consider whether the employee should receive professional advice, to ensure their future actions are not vulnerable to challenge. The employee will be informed of any support deemed appropriate and the form it may take. Notwithstanding the school's duty of care to the employee, he or she may request support including counselling from the employer.
59. The school will consider what follow up action should be taken in regard to the complainant particularly where it has been shown that the allegation was made maliciously or it can be demonstrated that it was vexatious. Schools are advised to seek guidance from the School Employment Advisory Team when considering appropriate action.
60. A confidential record of all follow up actions and the reasons for them shall be kept securely for a period of three years.
  - 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.

- Pupils that are found to have made malicious allegations are likely to have breached school behaviour policies. The school or college should therefore consider whether to apply an appropriate sanction, which could include temporary or permanent exclusion (as well as referral to the police if there are grounds for believing a criminal offence may have been committed). (DfE, 2012)

## **STAGE 5 – CONSIDERATION OF FORMAL SUSPENSION**

61. The power to suspend an employee is contained in the Staffing Regulations 2003 arising from the Education Act 2002 and will be embodied in the school's adopted disciplinary procedure.
62. Employees against whom an allegation of a child protection nature is made should not automatically be suspended. Paid leave of absence, mutual agreement to refrain from work, alternative duties or removal from contact with pupils may also be used as an alternative to suspension.
63. However, suspension may be considered at any stage of the investigation.
64. If an unfounded allegation has been ruled out following the preliminary investigation, the seriousness of the allegation will indicate whether or not suspension is likely. Schools are advised to seek guidance from the School Employment Advisory Team when considering suspension.
  - a) An allegation of abuse is likely to lead to automatic suspension, unless the police have determined that they wish to interview the employee before they are approached by the appropriate person of the school.
  - b) An allegation of unacceptable professional behaviour may or may not lead to a suspension.
  - c) An allegation viewed as acceptable professional behaviour is unlikely to lead to suspension.
65. The purpose of a suspension is outlined in the school's adopted disciplinary procedure and will usually be invoked in the case of allegations of a child protection nature, where:
  - A child(ren) is at risk.
  - The allegation is so serious that dismissal for gross misconduct is a possible outcome.
  - A suspension is necessary to allow the investigation to be conducted unimpeded.
66. Where practicable a meeting shall be arranged to inform the employee of the decision to suspend them from duty. The employee may be accompanied by their professional association representative or a friend at any such meeting.
67. The employee should be informed at the outset of the meeting of the allegation made against them and given the reasons for the proposed suspension. There should be no examination of evidence at the suspension meeting. Appropriate opportunities for the employee to respond to the allegation will be provided at later stages of the school's adopted disciplinary procedure.
68. The employee shall be informed that suspension is not a disciplinary action and will be on full pay.

69. Written confirmation of the suspension, the reasons for it and the terms of the suspension will be sent to the employee within one working day of the suspension meeting.
70. In some cases, it may be appropriate to provide the employee with access to the Occupational Health Unit and/or counselling services.
71. Once a suspension has taken place there is often speculation as to the reasons for it. Schools are reminded that they have a duty of care to both the employee and the alleged victim in these circumstances. Therefore schools are strongly advised to seek guidance from the LA on appropriate statements for staff and the press.

## **STAGE 6 – DISCIPLINARY INVESTIGATION**

72. Where it has been determined that a concern or disclosure can be dealt with through the school's internal procedures, the matter should be referred to the adopted disciplinary procedure for investigation as to whether or not there is a case to answer.