

# Allegations of child abuse against employees

## Extract taken from HR Policies and Procedures – Guide for Employees – June 17

The definitions of child abuse are contained within the Nottinghamshire Safeguarding Children Board (NSCB) Procedures, a copy of which should be in school.

Allegations should be discussed with the LADO, a result of which might be a strategy meeting involving the police, social care and other relevant agencies, or that the allegations do not meet the threshold and therefore can be dealt with using the disciplinary procedure.

Where the Head Teacher or an employee from the central team is accused, the governing body or CEO will manage the procedures.

Local child protection procedures should also be implemented for any allegations against volunteers, governors and other adults involved with but not employed by the school as well as for allegations against third parties with no involvement in the school.

These guidelines are designed to be consistent with principles of natural justice for all concerned.

Because of your daily contact with children in a variety of situations, you are particularly vulnerable to accusations of abuse.

You need to ensure your conduct and behaviour with children and young people is appropriate and to take all reasonable steps to minimise the risk of your actions being construed as illegal or professionally inappropriate.

It is recognised that the nature of relationships between employees and pupils may lead to allegations being made such allegations may be false, malicious or misplaced and may be either deliberate or innocent of such intent. The allegations may also be true. It is essential, therefore, that everyone involved maintains an open mind in dealing with such allegations. Every effort should be made by all parties to resolve cases as quickly as possible consistent with the need for a fair and thorough examination of the allegations.

The DFE has established indicative **timescales** for the management of such cases in order to avoid unnecessary delays at any stage of the processes. These recommendations are shown in the procedures detailed below. However, it is recognised that the time taken to resolve such cases will depend on such factors as the complexity and seriousness of the case, the availability of key witnesses, holiday periods etc.

We will ensure that if you are the subject of the allegations, you are kept informed of the progress of the case and offered appropriate support. In some circumstances the police and / or social care services may require information to be withheld if it could prejudice their enquiries.

Support will need to be considered for the child or children making the allegations and their parents. Consideration will also need to be given as to what support may be needed for others at the school, both employees and parents, according to the circumstances of the case.

### **First Response - How to respond to an allegation**

If you witness abusive behaviour by another employee or receive such a complaint from a parent, child, governor, colleague or other person you have a duty to respond appropriately and in line with these procedures.

Complaints made against the head teacher will be managed by the CEO of FHT and/or chair of governors or other relevant person.

**Listen** – If a child reports to you that they have been abused by another employee, they must be listened to.

**Keep an open mind** - It is often difficult to believe that a colleague may have behaved in the manner alleged. You must therefore keep an open mind regarding the circumstances of the allegation.

It is essential that you follow this guidance when dealing with such an allegation, particularly if made directly by a child:

- The child should be listened to but not interviewed or asked to repeat their account.
- Avoid asking direct questions, particularly leading questions wherever possible.
- The child should not be interrupted when recalling significant events.
- All information should be noted carefully. As far as possible details such as timing, setting, who was present and what was said should be recorded in the child's own words and be as near verbatim as possible.
- The listener must take care not to make assumptions about what the child is saying or to make interpretations.
- The adult must, on no account, offer suggestions or alternative explanations for the child's concerns.
- A written record of the allegations should be signed and dated by the person who received them as soon as possible.
- All subsequent actions must be recorded in writing.

**Don't make promises** - No promises of **confidentiality** should be made to pupils who make allegations. Instead, the child should be encouraged to agree that the matter must be taken further in the knowledge of what this may involve. Whilst acknowledging the need to create an environment conducive to speaking freely, it should be made clear to the child that in all cases you have a duty to pass on what the child has told you to ensure the protection of child(ren).

The child should be assured that the matter will only be disclosed to those people who need to know about it. Support may need to be offered by the school, FHT, LA or the appropriate agency.

Consideration must be given at this point as to whether the allegation may be malicious. If it is obvious that the incident could not have taken place or it is reasonable to suspect that the allegation is malicious then further advice should be sought before making any decisions.

**Write it down** - A written dated **record of the allegations** must be made as soon as possible, but certainly within 24 hours. If, however, a decision is made to take no further action, a written record of this should be made including the reason for the decision.

**Report it immediately - to the head teacher** (or the nominated governor or CEO of the FHT where the allegation is against the head teacher).

The head teacher/nominated governor/CEO must:

- Inform the LA Designated Officer (LADO).
- Obtain details of the allegation in writing, signed and dated by the person who receives the allegation (not from the child who made or is the subject of the allegation) and countersigned by the head teacher or nominated governor.
- Record any information about times, dates, locations and names of potential witnesses.

### **Initial assessment**

At this stage the head teacher (or nominated governor) will urgently consider whether there is sufficient substance in the allegation (anonymous or otherwise) to warrant further action.

They will seek advice from the LADO or the local Children's Social Care duty team. A joint agency strategy discussion between the school, the LADO, Social Care, HR and police may be instigated at this stage to determine the appropriate action to be taken.

Even in cases where it does not appear that the child has suffered significant harm it is important to act quickly. It is also important to recognise the distinction between establishing whether an allegation warrants further investigation and deciding whether or not an allegation is well founded.

The IRSC document "Definitions and Thresholds for managing allegations against Education staff" provides further detailed guidance on these issues.

If a child makes an allegation that is considered to be a **potential criminal act** within the scope of the child protection legislation or indicates that they have suffered, are suffering or are likely to suffer significant harm, the head teacher (or designated governor) will refer the matter immediately in line with the local child protection procedures. This will either be via direct contact with police or children's social care officers, or the LADO or their representative. If there is any doubt about this, advice must be sought immediately from the relevant LA team (see above).

#### **Allegations that do not warrant referral**

It is recognised that in some circumstances the allegations will not warrant referral under NSCB procedures. For example:

- Where the allegation clearly relates to the use of reasonable force to restrain a pupil in accordance with current guidance and legislation
- Where, following initial consideration by both the head teacher and the LA designated officer, it is absolutely clear that the allegation is demonstrably false

#### **Allegations that warrant further investigation and/or referral**

If, after the initial assessment by the LADO and the head teacher (or, where the allegation is against the head teacher, the nominated governor/ CEO of FHT) concludes **that the allegation warrants investigation**, there will be either:

- a referral to one or more of the agencies with statutory responsibilities to make enquiries; or
- an investigation under the school's disciplinary procedures where the school and LADO are wholly satisfied that the child or children is/are not at risk of significant harm or that a potential crime has not been committed.

#### **Outcomes of Initial Assessment**

Following the initial assessment, a decision must be taken regarding appropriate courses of action. There are four possible outcomes: -

- a) Where the pupil has suffered, is suffering or is **likely to suffer significant harm**, there should be an immediate referral to children's social care under the local child protection procedures.
- b) Where the child has alleged that a **criminal offence has been committed** within the scope of child protection legislation, a referral to children's social care under local child protection procedures will be necessary. The police may then decide to carry out a criminal investigation.
- c) Where it is considered that the allegation was prompted by **inappropriate behaviour or bad practice** by the employee which does not fall into either of the above categories, it should be dealt with under the school's disciplinary procedure. In such cases the DFE recommends that, if a disciplinary hearing is required and can be held without further investigation, it should be held within 15 working days. However, the arrangements will also need to comply with the timescales set out in the school's disciplinary procedures

- d) Where it has been demonstrated that **the allegation is without foundation** consideration must be given as to what other appropriate action needs to be taken. In such cases, the DFE recommends that the head teacher should take any such appropriate action within **3 working days**.

### **Referral to Children's Social Care and / or Police**

If the initial assessment concludes that a child may have suffered or is at risk of significant harm and/or in need of protection, there should be an immediate referral to the Children's Social Care Area Office in accordance with the agreed procedures established by the NSCB.

Where allegations of abuse are referred to Children's Social Care or the police, subsequent action by all of the agencies involved will be in accordance with the local child protection procedures. This means that any preliminary action to establish the nature of the allegation and to assist consideration of whether it should be investigated should be undertaken in such a way that it does not prejudice any subsequent action. There must then be no interference with evidence and, in particular, no employees or governors should attempt to interview children about these matters. The sections "First Response"- and "Investigative Procedures"- give specific guidance on listening to and interviewing children in these circumstances.

In some cases, the police may wish to interview you before any approach is made by the head teacher / designated person (or nominated governor in cases where allegations involve the head teacher). The police may need to act independently, particularly where the alleged offence does not arise from the individual's professional duties in the school. Police Officers should be given every assistance with their enquiries and, in the interest of the individual and the school, confidentiality must be maintained. The employee concerned should be advised and given every opportunity to contact their recognised trade union who will arrange for the appropriate support to be available.

When police are involved, formal interviews with children should not normally take place on school premises but, where necessary, provision should be made for these to be held in the presence of an employee of the child's own choosing, if appropriate. It would be expected that appointments should be made for such interviews to take place at reasonable times.

The police or the joint agency strategy discussion may decide that the investigation would be hindered by an approach to other parties at an early stage. In such cases, the head teacher, in consultation with the LA teams, must ensure there is no objection by the police before contacting any of the parties involved. Subject to there being no objection, the head teacher (or nominated governor and CEO of the FHT in cases involving allegations against the head teacher) should: -

- (a) inform the child, children or parent making the allegation about the referral and explain the likely course of action.
- (b) ensure that the parents of the child who is the alleged victim have been informed of the facts of the allegation and of the likely course of action.
- (c) inform the employee against whom the allegation is made, explain the likely course of action and strongly advise them that they should urgently contact their recognised trade union.
- (d) inform the chair of governors/nominated governor of the school (and the FHT in line with identified reporting procedures).

Where the police object to action being taken as outlined in (a) – (d) above, the head teacher/nominated governor (and the CEO of FHT in the case of head teachers) and the LA should be informed accordingly and arrangements made to keep him/her informed as to when these notifications may take place or have taken place. A written record of the action taken under this section should be made by the head teacher (or nominated governor).

## Managing Communications

Parents and carers of any children directly involved should also be kept informed about the allegation and the progress of any subsequent procedures. They are also entitled to be told the outcome of any internal disciplinary hearing.

Every effort should be made to maintain confidentiality while an allegation is being considered or is under investigation. Any briefings to employees and governors should emphasise the need to avoid breaches of confidentiality and media coverage. Employees have the protection of the Human Rights Act 2000 in relation to their privacy regarding such allegations.

## Suspension

You will not automatically be suspended, however, in the case of an immediate referral to children's social care, immediate suspension may be necessary.

Circumstances which would normally warrant suspension include:

- a) where there is evidence that a child or children continue to be at risk and no other action can be taken to minimise this risk
- b) where the allegations are so serious that they constitute gross misconduct and there is sufficient evidence to suggest that the allegations may be true
- c) where it is necessary to allow the conduct of the child protection enquiries/investigation to proceed unimpeded
- d) where a police investigation is being undertaken and the police have indicated that suspension would be appropriate
- e) to protect your interests

## Preliminary investigation

You will be invited to attend a meeting at which you may bring a companion. The aim of the meeting is to get your initial response to any allegations.

If, as a result of a strategy meeting, the police are conducting a criminal investigation relating to the case, the school won't arrange this meeting without prior consultation with the officer in charge of the case.

Any statements made to the police in the course of their investigation by people who are potential witnesses in any internal disciplinary proceedings, including statements made by the complainant and the employee, will be made available to the local authority and school on request.

If a police investigation is being conducted, this must take precedence and the school investigation held in abeyance pending the outcome.

## Formal Investigations

There are three possible types of investigation which may result from such allegations:

- a) an enquiry conducted by Children's Social Care under local NSCB procedures.
- b) related police investigations into possible criminal offences.
- c) an internal investigation under the school's agreed disciplinary procedures.

Before a decision is taken about whether any enquiries will be undertaken by the police and/or Children's Social Care, **a multi-agency strategy meeting** will be held in accordance with the NSCB Procedures. This will usually involve the head teacher (or nominated governor where the allegation is against the head teacher), the LA's designated officer (or their representative), as well as officers from social care, HR and the police. Other agencies such as health may also be represented as appropriate to the case. The

strategy meeting will be convened by Children's Social Care in line with Section 47 of the Children Act 1989.

The purpose of the strategy meeting is to share all available information about the allegation and the alleged victim(s) and perpetrator(s) and to plan what action, if any, needs to be taken and by whom. In particular, the meeting will consider:

- whether an enquiry or investigation needs to be conducted,
- the type of enquiries or investigation to be conducted and by whom
- how such an enquiry or investigation will be conducted and the timeline
- whether any other children are likely to have been at risk in the light of the allegation
- the implications for the employee and the child involved
- whether it may be necessary to review any previous allegations made against the employee
- any appropriate action to be taken by the school in relation to the employee e.g. whether suspension is necessary, levels of information and support to be offered by the employer, whether or not any internal investigation should be conducted

## **Internal Investigations**

### **Conducting the investigation**

See Disciplinary Procedure for guidance on managing an investigation and what to expect if you are the person being investigated.

### **Timescales**

The government state that:

- the investigating officer should aim to produce a report within **10 working days**.
- On receipt of the report, the head teacher / chair of governors (or in the case of the head teacher the CEO of FHT) should consult the LADO within **2 working days** to make a decision as to whether a disciplinary hearing should be held.
- If a disciplinary hearing is warranted, the government further recommends that this should be held within **15 working days** of that decision. The LADO is required to monitor the progress of the investigation.

However, the timescales will also need to take account of the requirements of the school disciplinary procedures regarding the sharing of papers and the minimum 10 working days' notice of a disciplinary hearing.

### **Subsequent Action**

Once all the appropriate people have been interviewed and all the relevant issues have been explored, the investigation is complete. The details obtained and the statements taken should then be compiled into a report and discussed with the LA Designated Officer and/or HR. Consideration will again be given as to whether there are matters which should be referred under school disciplinary procedures, local child protection procedures or to the police and whether suspension is appropriate. If there is such a referral, further proceedings at school level should be held in abeyance.

In conducting an internal disciplinary investigation, the head teacher will need to balance the welfare of the accused employee and the interests of the investigation, bearing in mind the need to minimise the degree of stress caused to anyone who may be wrongly accused.

### **Outcome of internal investigations**

There are two potential outcomes of the investigation:

- **Disciplinary action**

If the outcome of the investigation is a decision that disciplinary action is needed, any further action should then be in line with the usual disciplinary procedures. (See Disciplinary Procedures)

### **Allegation is without foundation**

In cases where the head teacher, in consultation with the LA Designated Officer and other appropriate agencies, believes that the allegation is without foundation, the following courses of action will need to be considered:

- a) whether the child might have been abused by someone else and whether a referral should, therefore, be made under the local child protection procedures to assess the situation;
- b) arrange a meeting to inform the accused employee of the allegation and the fact that no further action is to be taken under disciplinary or child protection procedures. This should be confirmed in writing. The employee may be accompanied by a trade union representative or friend;
- c) whether counselling and/or informal professional advice to the employee is appropriate and the form either might take;
- d) inform the parents of the child or children of the decision not to take any further action;
- e) consider appropriate counselling and support for the child or children who made the allegation(s) and, where appropriate, their parents. In particular, take into account a child's individual needs where a false or malicious allegation has been made. Support and advice regarding appropriate action must be sought from the LADO, Children's Social Care and EPS in these circumstances;
- f) prepare a confidential report embodying a) to e) above and giving reasons for the conclusion that the allegation is without foundation;
- g) consider any other appropriate action in relation to the child concerned. Advice should be sought, where appropriate, from the LA, e.g. EWS, EPS.
- h) if you have been suspended it should be lifted immediately, confirmed in writing and the Trust and chair of governors informed accordingly. The head teacher should then arrange to meet with you to discuss arrangements for their return to work. Informal counselling, appropriate support and training may be offered as appropriate in order to rebuild your confidence and address any issues affecting other employees.