

# **PROCEDURE & GUIDANCE FOR STAFF FACING AN ALLEGATION OF ABUSE**

**October 2014**

**The Willows**



**Primary School**

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## Introduction

The Willows Primary School has written these guidelines in order to assist if you are faced with an allegation of abuse by providing an explanation of the process that will be followed and offering information about appropriate support and guidance.

Any allegation is likely to cause a great deal of anxiety and concern. These guidelines are designed to enable you to be as well informed as possible.

Further information can be found in:

- School/LEA and Local Safeguarding Children's Boards (LSCB) allegations about staff procedures
- School/LEA disciplinary procedures
- 'Safeguarding Children in Education' DfES/0027/2004
- 'Staff facing an allegation of abuse' – joint NEOST/Teacher Union Guidance September 2002
- DfES Circular 0278/2002 Child Protection: Preventing Unsuitable People from working with children and young persons in the Education Service available at: [www.teachers.gov.uk/management/childprotection](http://www.teachers.gov.uk/management/childprotection)

## What happens when an allegation is made

An allegation is any complaint or concern however, and by whoever, raised that might indicate that:

- A person has harmed a child or put a child at risk of harm, or
- Has displayed behaviour involving or related to a child that might constitute a criminal offence,
- Or has behaved in a way that raises concern about his/her suitability to work with children

At Willows Primary School if it is an allegation of reasonable force to restrain a pupil or is trivial in nature, the headteacher or Chair of governors will deal with the matter. In other cases, the head/chair of governors should consult the designated LA Lead Officer to consider whether the school and LEA can deal with the matter or whether it needs to be referred to Social Services and the Police for investigation. **You may not be told immediately of the allegation.**

From this initial consideration there are four possible outcomes:

1. It is alleged that the pupil has suffered, is suffering, or is likely to suffer significant harm, in which case an immediate referral will be made under LSCB procedures.
2. It is alleged that a criminal offence has been committed and this will be referred under LSCB procedures with the police possibly carrying out a criminal investigation
3. the allegation may represent poor inappropriate behaviour and may be considered under local disciplinary procedures
4. the allegation is clearly and demonstrably without foundation

## NB There could be a combination of 1, 2 and 3

At The Willows Primary School if the outcomes are either 1 or 2 the referral should result in a **Strategy Discussion** taking place with the Police, Social Services and LA Officers. The Strategy Discussion is held under child protection procedures and the primary focus is on the needs of the child. The Head will normally be asked to attend. The discussion should take place before you have been made aware of the allegation, but in either case you will not be invited to contribute. The discussion will determine what actions are to be taken next and is not part of any disciplinary procedures.

The Strategy Discussion will consider not only the children directly involved in the allegation but also any other children who could have suffered or are at risk of suffering significant harm. This could include your own children.

If the outcome is 3 an investigation will be initiated by the school/LREA under agreed disciplinary and/or capability procedures.

If the outcome is 4 you will be informed formally both verbally and in writing of the allegation and that it is without foundation. You should be informed that no further action will be taken and you should be offered support as necessary.

### **What type of investigation will be undertaken**

There are three possible types of investigation:

- i. by Social Services, under child protection procedures
- ii. by Police relating to possible criminal offences (see Appendix A)
- iii. by the school/LEA under disciplinary or capability procedures

**NB.** The above may involve interviews with a number of people, including members of your family, and a joint investigation may be undertaken by Social Services and Police.

In certain situations the three investigations detailed above may take place simultaneously, but it is more usual that any disciplinary investigation will be held in abeyance until the external agency investigations are complete. Whilst the above investigations should always be conducted as speedily as possible, they should also be balanced against the need for a thorough and fair process, in line with natural justice.

Statements gathered in external investigations could be used in subsequent disciplinary proceedings.

### **What considerations are made regarding suspension**

The provision for suspension is set out in the Education Act 2002 and accompanying regulations. Decisions regarding suspension can only be taken by the Headteacher of governing Body. Action by the Chair in relation to the Headteacher must be notified to the full Governing Body.

You should not be automatically suspended. Your headteacher should consult with the LA Lead Officer and the Human Resources provider. The strategy meeting may also make recommendations re suspension, however the final decision lies solely with the headteacher or governing body.

Suspension is a neutral act, not a sanction, and should only occur when:

- a. a child/ren may be at risk
- b. the allegations are so serious that a dismissal for gross misconduct is possible
- c. a suspension is necessary to allow the conduct of the investigation to proceed unimpeded

When suspension is being considered an interview will normally be arranged with you and you are advised to seek assistance from your Trade Union. You have the right to be accompanied to the interview by a Trade Union representative or a friend. If you are suspended one of the roles of the union representative will be to promote your interests and raise issues that may be of concern to you.

The meeting is **not** concerned with examination of the evidence but rather an opportunity for you to make representations concerning possible suspension.

Alternatives to suspension should always be considered, e.g. leave of absence, transfer of duties or additional supervision. If you are suspended you should be kept informed of the position regarding your case by your employer on a regular basis even if there are no developments to report.

### **Who will be notified**

Various people will need to be informed that an allegation has been made, regardless of whether a suspension has taken place or not. Decisions will be based on who needs to know and taking into consideration, as far as possible, the issues of confidentiality.

The following individuals will be informed that an allegation has been made and the likely course of action:

- The child concerned, their parents and any party making an allegation
- You – at the appropriate time
- Your headteacher/chair of governors/manager
- The LA Lead officer for Child Protection

There may be occasions when the police will need to decide the appropriate timing for the above individuals to be notified.

If you have been suspended, in addition to the above, it will be necessary to inform the following:

- Governing Body (with minimal information to ensure that any future process is not prejudiced)
- Senior teachers/other staff, so far as is necessary, as determined by the headteacher/chair of governors

Where, unfortunately, the matter becomes common knowledge or subject to speculation it may also become necessary to issue a brief and accurate statement for parents, children and the public. This will be determined by the appropriate individuals following consultation.

### **What support will be offered to me if an allegation is made**

You should be:

- a) Advised to contact your Union representative
- b) Given the name of a contact who will keep you up to date with progress of the investigation
- c) Given the name of a school contact, if you are suspended, who will keep you up to date about school activities outside of the investigation. Social contact with colleagues should not be precluded unless it is thought that it would be detrimental to the investigation. The type of information and frequency of contact should be agreed between the parties. Colleagues would not be expected to comment on the investigation
- d) Offered the services of the Staff Counselling Service and/or Occupational Health support if available

(See Appendix B for contact details)

It is clearly recognised that if an allegation is made against you it is a very stressful situation. Not only are you strongly advised to contact your union representative, but also your GP if you feel your health is being affected.

### **What happens regarding a return to work**

If you have been suspended and a decision is made for you to return to work, your Union representative can assist in negotiating and planning this return.

**What records will be kept**

Key documents (Date Protections Code of Practice: Employment Records. Records of allegations against workers that have been investigated and found to be without substance should not normally be retained once an investigation has been completed. There are some exceptions to this where the employer has to keep a limited record when the allegation relates to abuse and where the person is employed to work with children. You should be told if this is the case and you are entitled to request access to records) relating to an investigation, including the outcome, **must be** retained in a secure place by the school/LA. Other agencies, if involved, will maintain their own records.

**Will I be notified to the DCfS Children's Safeguarding Operations Unit (formerly the Teachers' Misconduct Team)**

Your employer has a statutory duty to report you to the Children's Safeguarding Operations Unit, for consideration of barring you from, or placing restrictions on, working with children if:

- You are dismissed for misconduct or because you are otherwise considered unsuitable to work with children or
- You resign before a disciplinary process is completed, and your employer considers that it may have dismissed you at the outcome of the process

If you are referred, the Misconduct team will send you a letter explaining the process, including your right to make representation.

## APPENDIX A

### **Information for staff accused of a criminal offence**

If an allegation has been made against you and the police decide to conduct an investigation, you may be arrested or invited to attend the police station to assist with the investigation. You should contact your Union for advice.

If you are arrested or interviewed about the allegation you should be cautioned as follows: "*You do not have to say anything but it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence*".

At the police station you will be entitled to free independent legal advice. A Duty Solicitor can be contacted for you, but if you want to use your own Solicitor make sure s/he specialises in criminal law. If you are 'assisting with the investigation' and not under arrest, you should be told you are free to leave if you wish to do so.

If you have been arrested you will be seen by the Custody Officer who will explain your rights in detail, including the right to have someone informed of your arrest and to make a telephone call. You will also be able to consult and read a copy of the 'Code of Practice' that covers your treatment during detention and interview. The Custody Officer will maintain a record of your period of detention.

Following arrest you can normally be held for up to 24 hours, after which you must be charged or released (with or without bail). This period of time starts at the time of your arrest or arrival at the station, whichever is the earlier. This period can be extended by a Superintendent or a Magistrate up to a maximum of 36 and 96 hours respectively, depending on the seriousness of the case.

In all cases involving allegations against staff, decisions about charging rest with the Crown Prosecution Service (CPS), who act independently of the police, and a senior Crown Prosecutor, will be consulted early in the investigation.

If you admit the offence, the CPS may advise that you be cautioned, whereby you are formally warned about your actions by a Police Officer usually of the rank of inspector or above. A caution will be recorded by the police and may influence the decision whether or not to institute proceedings should you offend again. A caution could affect your ability to work with children in the future, and in sexual abuse cases it may result in you being placed on the Sex Offenders Register. You should seek advice from your solicitor before agreeing to accept a caution.

If the CPS advises the police to charge you, this will be carried out by the custody officer. You will then either be released on bail to appear in court at a future date or kept in custody to appear at the next available court. The responsibility for the prosecution will lie with the CPS.

**APPENDIX B**

**YOU ARE STRONGLY ADVISED TO SEEK SUPPORT  
THE FOLLOWING CONTACTS MAY BE OF USE TO YOU**

School contact	
LA support Contact	
Human Resources	
Union Representative	
Occupational Health	
Staff Counselling Service	