



Management of Safeguarding Allegations against Staff and Volunteers in an Education Setting: Procedure

Authority Guidelines on Staffing Procedures for Community, Voluntary Controlled and Special Schools

NB This document should be read in conjunction with
Wirral Safeguarding Children Partnership's Procedure:
<https://www.wirralsafeguarding.co.uk/procedures/>

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1. Introduction

This guidance applies to all 'staff members' whose work brings them into contact with children in an education setting. It therefore applies to all of the following:

- Teachers (including supply teachers)
- Support staff (including agency staff)
- Volunteers
- Other adults working with children and young people (whether paid or working in a voluntary capacity on or off school premises and sites)

This guidance is based on the DfE guidance on allegations of abuse against teachers and other staff in Part 4 of Keeping Children Safe in Education and takes account of WSCP local procedures.

The Wirral Children's Safeguarding Children Partnership also hold regular seminars to advise on the management of allegations against people who work with children. Those responsible for managing such allegations are strongly recommended to attend one or other of these sessions.

2. What would be considered to constitute a Safeguarding Allegation?

This guidance should be used in respect of all cases in which it is alleged that a member of staff in a school or other educational establishment that provides education for children under 18 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 will pose a risk of harm if they work regularly or closely with children
- behaved or may have behaved in a way that indicates they may not be suitable to work with children

NB This includes behaviour that may have happened outside of school or college, which might make an individual unsuitable to work with children. Where appropriate an assessment of transferable risk to children with whom the person works should be undertaken. If in doubt seek advice from the local authority designated officer (LADO).

Types of abuse may be:

- Emotional
- Physical
- Sexual
- Neglect

Abuse of Position of Trust

All adults working with children and young people are in a position of trust in relation to the young people in their care. Where a person aged 18 or over is in a specified position of trust with a child under 18 it is an offence for that person to engage in sexual activity with or in the presence of that child or to cause or incite that child to engage in or watch

sexual activity For further information see guidance on the Sexual Offences Act 2003 at www.legislation.gov.uk.

3. Context for the Management of Safeguarding Allegations against staff and volunteers

When an allegation is made, it is important that you follow the procedures contained in this document immediately and **do not commence any internal investigation** until agreement is given to proceed by the Local Authority Designated Officer (LADO).

The procedures for dealing with allegations need to be applied with common sense and judgement. Some cases may not meet the criteria set out above at all or may do so without warranting consideration of a police investigation or enquiries by Local Authority Children's Services. Where this is confirmed by the LADO, an internal arrangement should be followed to resolve cases quickly and without delay.

It is important to ensure that even apparently less serious allegations are seen to be followed up, and that they are examined objectively by someone independent of the organisation, i.e. Local Authority Designated Officer (LADO). In addition, **Maintained, Academy, Independent and Free schools all have a statutory duty to report allegations to the Local Authority.**

Headteachers may also seek the advice of their HR Consultancy Provider where an employee's behaviour is a matter of concern to his/her manager because it compromises or may be seen to compromise the reputation and ability of the organisation to safeguard children.

NB The Wirral School's Policy for Safer Working Practices for those working with children and young people in education settings (Sept 2019), sets out examples of safeguarding concerns and the expected behaviour of those working with children and young people.

4. Procedure for the Management of Safeguarding Allegations against staff and volunteers

i) Referral by a member of staff or a volunteer

All staff and volunteers have a responsibility to report anyone member of staff they believe is 'harming' or using unacceptable behaviour towards a child, to the Headteacher.

NB Where the concern is about the headteacher, the concern should be raised with the Chair of Governors or other designated safeguarding lead in the school.

Where a child or adult reports concerns to a member of staff, they must be listened to and taken seriously. The member of staff **must not attempt to investigate the allegation** but inform the Headteacher and provide a full written and dated account of what has been reported to them.

ii) Action by Headteacher

Allegations may be made directly to the Headteacher by children, parents, members of staff or other persons. In some instances, allegations are made directly to the Police, who

will inform Children's Social Care Services if they believe the allegation meets the threshold for referral.

NB Where the concern is about the headteacher, the concern should be raised with the Chair of Governors or other designated safeguarding lead in the school.

iii) **Referral to Local Authority Designated Officer and HR Consultancy**

The Headteacher should inform the Local Authority Designated Officer (LADO) of allegations **on the same day** or next working day (within 24 hours) and the HR Consultancy Team. Church Schools should also inform their Diocesan Boards of allegations.

NB Schools or settings registered with Ofsted, should also inform Ofsted, where the allegation is significant.

iv) **Actions following referral to the LADO**

The Headteacher must not take any action, commence an investigation, or inform the member of staff or volunteer of the allegation before consulting with the LADO, but may make basic enquiries to determine whether the allegation could possibly have occurred or to establish the facts of the allegation, if these were unclear, e.g.

- Was the child/staff member/ volunteer in school on that day?
- Could the child have had contact with the staff member/volunteer?
- Could there have been any witnesses?

If the LADO unavailable, the Headteacher should discuss the allegation with a member of Wirral's Corporate Safeguarding Team and HR Consultancy team.

v) **Informing member of staff or volunteer of the allegation(s)**

In normal circumstance the Headteacher **should not** inform the employee immediately of the allegation(s), as this may undermine an external investigation if required later.

If a Managing Allegations Meeting Safeguarding Multi-Agency Strategy Meeting is called by the LADO, the headteacher* will be required to provide as much information as possible about the issue. Under this circumstance the Headteacher **should not** disclose any information to the person subject to the allegation (a copy of agencies who attend Safeguarding Multi-Agency Strategy meeting is available on request).

NB Employers must consider carefully whether the circumstances of a case warrant a person being:

- **instructed not to be alone with a child alone during the investigation**
- **instructed to work from home during the investigation**
- **suspended from contact with children at the school until the allegation or concern are investigated**

Please refer to Schools Disciplinary Procedure for more information.

The Headteacher should inform the staff member about the allegation as soon as practicable **after** consulting the LADO and HR Consultancy Team.

vi) Attendance at LADO Managing Allegation Meetings

The managing allegations meeting will normally involve the LADO, Headteacher and HR Adviser to the school.

The purpose of the meeting is to establish the following:

1. Consider the nature, content and context of the allegation and whether there have been any previous allegations.
2. Consider the risk to the child/other children within or outside the workplace.
3. Determine the need for to be informed by the LADO whether a child protection enquiry and/or criminal investigation is to be undertaken (joint or single agency).
4. Establish a clear action plan with timescales.
5. Decide who to inform and when.
6. Make recommendations on whether suspension, disciplinary, competency, regulatory or complaint procedures should be instigated.
7. Consider the need to inform other relevant parties and the need to prepare agreed media statements.
8. Agree criteria for a re-referral if new evidence comes to light in any 'internal' procedure which suggests a further LADO Managing Allegations Meeting is required or Safeguarding Multi Agency Strategy Meeting is needed.

vii) Outcome of the LADO Managing Allegation Meetings Safeguarding Multi Agency meeting

Following consideration of the allegation and other relevant information, the following courses of action may be agreed:

- no further action – unfounded case
- a Police investigation of a possible criminal offence*
- enquiries and assessment by Children's Services Social Care about whether a child needs protection or in need of service
- an internal School or Local Authority Disciplinary Investigation which may lead to management guidance, training and/or disciplinary action, including potential dismissal - advice on conducting a disciplinary investigation can be sought from your HR provider

* Where the Police or Social Care are investigating an allegation, a School Disciplinary Investigation/ Local Authority investigation is normally held in abeyance until the outcome is known. However, in consultation with the Police an internal investigation may be conducted in parallel.

viii) Managing an Internal Disciplinary Investigation

Following completion of any required external investigation, or if the matter is not pursued by the Police or Children's Services Social Care, an allegation against a member of staff* may be likely to require an internal investigation to determine whether disciplinary action is needed. Disciplinary action should not be taken until the alleged misconduct has been properly investigated. Please refer to the School Disciplinary Procedure.

ix) Outcome of Disciplinary Investigation

The investigation may conclude that:

- no further action is required
- it may be appropriate to offer support or further training

- it would be appropriate to give management instruction in order to register concerns, without recourse to formal disciplinary action
- a referral to the formal disciplinary procedure is needed

x) Disciplinary Hearing (if required)

Please refer to Wirral School Disciplinary Procedure, which can be found on WESCOM or the school's own disciplinary procedures, or relevant Diocesan Disciplinary Procedures.

Actions could include the following:

- Allegation unsubstantiated
- Management Instruction
- Verbal Warning
- Written Warning
- Final Written Warning
- Totting up dismissal – where there is a current live final written warning
- Summary Dismissal

xi) Resignation

If prior to or during a disciplinary process member of staff tenders their resignation or ceases to provide their services, this **must not prevent an allegation being followed up** under these procedures. It is important that every effort is made to reach a conclusion and wherever possible, the member of staff is given the opportunity to answer the allegations and make representations before a conclusion is reached.

xii) Settlement Agreement

If prior to or during a disciplinary process an employee or Trade Union representative contacts the headteacher seeking a settlement agreement, the schools **should not** consider entering into a settlement agreement, without having a discussion with Local Authority safeguarding team, who will advise whether it is reasonable under the circumstances.

Where a settlement agreement is considered as a potential exit strategy, in many circumstances the safeguarding team will advise that **this action should not be taken, as it does not appropriately Safeguard Children and Young People.**

NB A settlement agreement is where a member of staff agrees to leave the school, with a settlement payment with an agreed reference, and in return agrees not to pursue an employment tribunal.

Any agreement would not in any event prevent a Police investigation, where appropriate, nor override the statutory duty to report cases to the Disclosure and Barring Service and the Teacher Regulation Agency, where applicable.

xiii) Consideration of Referral to the Disclosure and Barring Service (DBS) and Teacher Regulation Agency (TRA)

If a serious safeguarding allegation is substantiated and:

- the person is dismissed,
- the school ceases to use the person's services, or
- the person resigns or otherwise ceases to provide his or her services,

the LADO should discuss with the school and their HR Advisor whether a referral to the Disclosure and Barring Service (DBS) for consideration of inclusion on the barred lists and/or Teacher Regulation Agency (TRA) referral is required.

Any referral 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. This is from the date of dismissal not the date of the appeal hearing. Human Resources will provide further details on this process, where applicable.

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

5. Summary of Managing Allegations against staff

i) Initial Consideration of an Allegation

When an allegation is made to an adult:

- it should always be taken seriously
- what is said should be clarified not questioned
- a record should be made of what is said, using the actual words as far as possible
- where necessary, any immediate medical needs should be addressed
- the allegation must be reported immediately to the Headteacher/Manager (or Chair of Governors in the case of an allegation against the Headteacher)
- do not promise confidentiality to the person who has raised the allegation (child or adult) but explain what will happen next

ii) Initial Action by the Headteacher or Manager

1. Consult the LADO immediately who will advise on the appropriate course of action.
2. Consider the facts as they have been presented.
3. Collect any written accounts, if already available.

The Headteacher, following advice from the LADO and HR Adviser, must consider the allegation and determine the appropriate way forward. The Headteacher should not investigate further or interview anyone and should not talk to any unauthorised person about the allegation.

The school will consider informing the individual whom the allegation has been made against and, where appropriate, informing parents and discuss the appropriate course of action with the Headteacher.

In some cases, the Police may request that the member of staff against whom the allegation is made, is not told of the allegation in case their prior knowledge may prejudice a Police investigation. This should only occur following a serious allegation or an allegation involving the use of technology (e.g. laptop or mobile phone).

iii) Possible Outcomes

In discussion with the Headteacher the LADO/HR Consultancy Team may recommend:

- An immediate referral to Children's Social Care Services through the Multi Agency Safeguarding Hub (MASH), who may arrange a joint services Safeguarding Multi Agency Meeting.
- Further local enquiries to gather more information/clarification.
- The allegation may not constitute a child protection issue but could be perceived as inappropriate behaviour by a member of staff warranting investigation by the school under disciplinary procedures. HR Consultancy Team can advise on the process.
- The allegation was false or unfounded, including a finding that reasonable force was used.