



# **Loughton School**

## **MANAGING ALLEGATIONS AND CONCERNS REGARDING STAFF SAFEGUARDING CHILDREN AND SUPPORTING STAFF**

## 1. LEGAL AND POLICY CONTENT

1.1 This policy outlines Loughton School's procedure for handling allegations and is consistent with:

- National guidance in *Working Together to Safeguard Children DfE (2018)*
- MK Together Procedures Manual, Chapter 2.6: *Allegations Against staff, Carers and Volunteers*

Managing allegations and concerns regarding staff in education settings and schools) <https://mkscb.procedures.org.uk/pkyxst/multi-agency-safeguarding-hub-mash/allegations-against-staff-carers-volunteers>

1.2 For the purpose of these procedures a 'staff member' is a person whose work brings them into contact with children in an education setting. It therefore applies to all staff, including contracted staff and individuals working in a voluntary capacity on or off school premises. A child is any person under the age of 18 years.

1.3 The framework for managing cases applies to a wider range of allegations than those in which there is reasonable cause to believe a child is suffering, or is likely to suffer, significant harm. It also caters for allegations that might indicate the alleged perpetrator is unsuitable to continue to work with children in his or her present position, or in any capacity. The framework should be used in respect of all cases in which it is alleged that a person who works with children may have:

- a) behaved in a way that has harmed a child, or may have harmed a child;
- b) possibly committed a criminal offence against or related to a child; or
- c) behaved towards a child or children in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children
- d) behaved or may have behaved in a way that indicates they may not be suitable to work with children.

1.4 There may be up to three strands in the consideration of an allegation:

- a police investigation of a possible criminal offence
- enquiries and assessment by children's social care about whether a child is in need of protection or in need of services
- consideration by an employer of disciplinary action in respect of the individual.

## 2. INTRODUCTION

This guidance needs to be read alongside the Government's Keeping Children Safe in Education 2020

This guidance relates to all adults working with children and young people, whether in a paid or voluntary position, including those who work with children on a temporary, supply or locum basis.

It includes those who have subsequently left the setting or may be working in other agencies with children.

### **Statutory Guidance: Key points**

- If an allegation is made against a member of staff, the quick resolution of that allegation should be a clear priority to the benefit of all concerned. At any stage of consideration or investigation, all unnecessary delays should be eradicated.
- In response to an allegation, staff suspension should not be the default option. An individual should only be suspended if there is no reasonable alternative. If suspension is deemed appropriate, the reasons and justification should be recorded by the school and the individual notified of the reasons.
- If a suspension has been made or a person has been moved to another post with no regulated activity, then this will be recorded on the Single Central Record. DBS will also be notified.
- If a suspension has been made or a person has been moved to another post with no regulated activity, consideration will also be made about any other contact they have with children and the safety of their own children. If a risk is identified, MASH will also be informed.
- Allegations that are found to have been malicious should be removed from personnel records and any that are not substantiated, 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 the school's behaviour policy. The school will 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).
- All schools, Early Years and Alternative Education settings and FE colleges should have procedures for dealing with allegations. The procedures should make it clear that all allegations should be reported straight away, normally to the Designated Person for child protection, or the Headteacher or principal or proprietor if it is an independent school. The procedures should also identify the person, often the chair of governors, to whom reports should be made in the absence of the Headteacher or principal, or in cases where the Headteacher or principal themselves are the subject of the allegation or concern. Procedures should also include contact details for the local authority designated officer (LADO) responsible for providing advice and monitoring cases.

2.1 Throughout their day to day contact with children, staff of Loughton School have a crucial role to play in noticing indicators of possible abuse or neglect and in referring concerns to the Designated Person for Child Protection. Headteachers and Governing bodies have a duty under S175 of the Education Act 2002 to ensure that sufficient measures are in place to safeguard the children and young people in their establishment. In general, the setting or school will contribute important information about the child's needs, level of understanding and the most effective means of communication, as well as providing the means by which many child protection referrals are made.

- 2.2 Given their contact, staff can also be vulnerable to allegations of abuse. It is acknowledged that these may be found to be untrue. It should be remembered however, that children sometimes make allegations to draw attention to problems experienced elsewhere in their lives or because they have misinterpreted an incident. Of course, there are occasions when allegations are substantiated.
- 2.3 All staff can contribute to child protection by helping to create a safe environment for children and young people. Children can be helped to understand what acceptable behaviour is, how they can stay safe from harm and how to speak up if they have worries.
- 2.4 This means that staff must also be aware of behaviour that is acceptable and behaviour that might make them vulnerable. Settings and schools are advised to produce guidelines for staff working with children and young people, to help minimise risk for all concerned. By doing so, employers make an essential contribution to their responsibilities both in respect of safeguarding children and in their duty of care to staff. The guidelines must be incorporated into the induction process for all new members of staff. Existing staff should be reminded of their importance each academic year as part of the training and development process.
- 2.5 Loughton School does not advocate the use of physical intervention. Staff are taught how to de-escalate situations, in order to avoid the use of force and use behaviour management techniques. 'Restrictive Physical Intervention Policy <https://mkscb.procedures.org.uk/ykyyzx/mk-levels-of-need/restrictive-physical-intervention-policy/#s3542> The advice is intended to provide clarification on the use of force to help settings and school staff feel more confident about using this power when they feel it is necessary and to make clear the responsibilities of settings and school leaders and governing bodies in respect of this power. This advice replaces '*The use of force to control and restrain pupils: Guidance for schools in England.*' There is no legal requirement to have a policy on the use of force but it is good practice to set out, in the behaviour policy, the circumstances in which force might be used.
- 2.6 Any instance of a child being abused by a member of staff is particularly serious. Equally, for an innocent person to be subject to what may be a lengthy period of investigation and possibly suspension, coupled with the threat of possible arrest, is a serious ordeal. Such experience can result in long term damage to a person's health and career. Any allegation against staff should therefore be managed with fairness and efficiency and without delay.
- 2.7 All efforts should be made to bring matters to a clear conclusion to safeguard both children and staff.
- 2.8 Any use of restraint must be investigated following the incident and support provided for all parties involved.

### 3. ROLES AND RESPONSIBILITIES

*Please note that key contact information can be found at the end of this document.*

- 3.1 The Headteacher of the school is responsible for dealing with allegations against members of staff. In his/her absence, this role should be undertaken by his/her deputy or DSL. In general, the Head Teacher is responsible for creating a safe environment in the school.
- 3.2 The Governing Body are responsible for ensuring that there are sufficient measures in place to safeguard the children in their establishment. **A Nominated Governor for safeguarding** should be appointed by the Governing Body and good practice suggests that this should not be the Head Teacher or a staff appointed governor.
- 3.3 **The Nominated Governor** liaises with the Headteacher to ensure that an appropriate child protection policy and procedures are in place (which include allegations against staff); and receives an annual Section 175 audit report on the child protection activity from the Head/DSL within the establishment on behalf of the Governing Body.
- 3.4 Where an allegation is made against the Head Teacher, this should be reported immediately to the **Chair or Vice Chair of Governors**.
- 3.5 In all cases of alleged abuse/unsuitable conduct by the Head Teacher, the Chair/Vice Chair of Governors should contact the Local Authority Designated Officer (LADO) within 24 hours to report the allegation/concern and consider any action required. If the LADO is not available, the Chair/Vice Chair should contact the MKC MASH. The LADO notification form should also be completed. <https://www.milton-keynes.gov.uk/children-young-people-families/children-s-social-care/the-role-of-the-lado-local-authority-designated-officer>
- 3.6 In accordance with any actions agreed with the LADO, the Chair/Vice Chair of Governors takes responsibility for managing the case on behalf of the school/setting. This includes representing the school/setting and carrying out any actions within the school in accordance with the LADO/ Strategy Discussion decisions OR overseeing the process if it is agreed with the LADO that the matter can be investigated internally.
- 3.7 The LADO will be available to offer support and guidance to the Chair of Governors as required, including before, during and after the Strategy Meeting.
- 3.8 The Governor who takes responsibility for managing an allegation against the Head Teacher should not, at a later stage, form part of any disciplinary or appeal committee hearing on the same matter.
- 3.9 Concerns around Teaching staff must also be reported through to the Teacher Regulation Agency (TRA)

## 4. MILTON KEYNES COUNCIL AND POLICE ROLES AND RESPONSIBILITIES

- 4.1 MKC Children's Social Care has a statutory duty to safeguard and promote the welfare of children in Milton Keynes who are in need and to make enquiries if they have reason to suspect a child is suffering or is likely to suffer significant harm. Children's Social Care will undertake any enquiries, jointly with the Police where necessary, to investigate allegations or concerns about child abuse, including cases managed under the LADO procedures.

The Multi Agency Safeguarding Hub (MASH) is the single point of contact for all child protection referrals other than allegations against people who work with children and is the back-up contact for the LADO in the event that the LADO is not available.

- 4.2 The **Local Authority Designated Officer (LADO)** will:

- Be involved in the management and oversight of individual cases
- Provide advice and guidance to employers and voluntary organisations
- Liaise with the Police and other agencies
- Monitor the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process
- Maintain records relating to allegations against staff
- The LADO can be contacted on 01908 254306.

The LADO is the first point of contact for all child protection allegations and concerns regarding people who work with children and liaises with MASH and other Children's Social Care teams as relevant. The LADO will advise on how to make a formal referral to the MASH.

- 4.3 **Police** have a duty to investigate criminal offences committed against children. Such concerns involving the family, other carers or staff working with children, should be handled by the Police CAIU (Child Abuse Investigation Unit). A senior officer will oversee cases involving staff and be responsible for ensuring effective liaison with other agencies.
- 4.4 **Human Resources Provider** should be consulted in all employment matters, including recruitment, discipline, and all other employee relations issues. HR Providers also have a role in providing investigative agencies with basic personnel details in cases of allegations against staff.
- 4.4.1 Advice and support to the Head Teachers and Governing Bodies related to employment matters should be provided by the school's contracted HR provider.
- 4.5 **MKC Governor Support services** will give support as part of their traded services to governing bodies, should any investigation result in a disciplinary process.

## **5. PRINCIPLES**

- 5.1 The protection of children from abuse is the responsibility of all staff, and the Head Teacher should ensure that staff and children are aware of how to report concerns of abuse and neglect.
- 5.2 Allegations or concerns made by or on behalf of a child should always be taken seriously and referred to the investigating agencies, as appropriate.
- 5.3 Investigations should be conducted in a way that recognizes the vulnerability of both children and staff. Investigations must be dealt with quickly, fairly and impartially.

## **6. SAFEGUARDING ENVIRONMENTS – Reducing the Risk**

- 6.1. Loughton School is proactive in reducing the risk of allegations and in reducing the vulnerability of staff by:
  - Developing a safeguarding ethos in which pupils and staff can express their concerns; where staff are encouraged to offer constructive challenge; and where whistle-blowing procedures can be engaged without fear. Safeguarding policies and procedures need to be accessible to all and there are means for communication and access to skilled advice.
  - Adopting safe recruitment and termination of employment practices.
  - Ensuring that all staff receive appropriate training in safeguarding and child protection, covering signs/symptoms and referral procedures. This can be provided through whole school Safeguarding training, which is required to be updated on an annual basis. In addition, named staff are required to undertake Designated Safeguarding Lead training every two years and knowledge and skills updates annually that examines responsibility for Child Protection issues in more depth. Ensuring that the Chair of Governors and designated Safeguarding Governors receive Safeguarding and child protection training, refreshed at least every year.
  - Ensuring that staff understand what safe practice is and what it is not. In particular, staff must be aware of behaviours that are likely to bring about criminal, child protection or disciplinary action. All staff therefore should be provided with clear and relevant codes of conduct – wherever possible tailored to the specific tasks they undertake.
  - Ensuring that concerns expressed by staff are taken seriously and responded to at the earliest stage.
  - Conducting risk assessments following allegations to reduce the likelihood of repetition.

## **7. INITIAL ACTION BY PERSON TO WHOM A CONCERN OR ALLEGATION IS REPORTED**

- 7.1 Concerns or allegations may be brought to the attention of a member of staff in various ways. A child might make a disclosure directly about another member of staff; a parent or other adult may report a concern about what they say they

have seen or have been told by a child; or the member of staff might observe an event or behaviour that causes them concern.

## 7.2 Responding to a child making an allegation

- Listen carefully to the child.
- Where necessary, only seek to gain clarification of what is being implied or alleged.
- Do not investigate any matter that may require child protection or criminal investigations.
- Avoid asking leading questions.
- Avoid interrupting a child when he/she is recalling significant events.
- Avoid making assumptions about what the child has said, or suggesting alternative explanations for their concern.

## 7.3 Confidentiality

Staff should not promise total confidentiality to children/adults who make allegations. They should inform them that this information will only be given to those who need to know. If possible, identify who these people are likely to be. Keep an open mind and do not allow preconceptions about the child or member of staff to influence your actions.

## 7.4 Immediate Support

Reassure the child or adult that their allegation will be taken seriously and explain that you will inform the DSL. If approached by the child, ask them where they want to wait and who with, whilst you inform the Head Teacher. Ensure that the child is separated from the person against whom the allegation is made, without informing anyone else of the reason.

## 7.5 Recording

Record all the information – including time, place, those present and what was said. Where a child has disclosed a concern, the child's own words should be noted. Sign and date the record. Any subsequent action must also be recorded. The record should be made as soon as possible following a disclosure or allegation/concern, on the same day.

## 7.6 Reporting

Report the matter to the Head Teacher immediately or if unavailable, their Deputy. If the concern/allegation is about the Head Teacher, report the matter to the Chair of Governors or Vice Chair. Provide them with a written report as soon as possible, but do not let this delay your verbal reporting. If unable to contact any of these people, directly consult the LADO or MASH within 24 hours. The LADO notification form must be completed <https://www.milton-keynes.gov.uk/children-young-people-families/children-s-social-care/the-role-of-the-lado-local-authority-designated-officer>

## 7.7 The recipient of an allegation **must not** unilaterally determine its validity and failure to report it in accordance with procedures is a potential disciplinary matter.

## 8. INITIAL ACTION BY THE HEAD TEACHER/CHAIR OF GOVERNORS/SENIOR MANAGER

- 8.1 Record details provided, including times, dates, location of incident, and names of any potential witnesses. Obtain a written report from the member of staff who received the concern.
- 8.2. Further clarification from the child may be sought if necessary, but this should be restricted to confirming that an allegation has been made, what it is, where it was alleged to have occurred and whom it concerns.
- 8.3. **No attempt should be made to interview the child, the member of staff concerned, or potential witnesses.** Attempts to establish the truth, however well intentioned, can seriously contaminate evidence for any subsequent investigation.
- 8.4. Record all decisions with their justification, even when a decision to take no further action is made.

## 9. INITIAL CONSIDERATIONS: CONSULTATION AND REFERRAL

- 9.1 Where there is an allegation or concern that **a person who works with children** 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; or
  - behaved towards a child in a way that indicates s/he is unsuitable to work with children behaved or may have behaved in a way that indicates they may not be suitable to work with children.

This **must** be referred to the Local Authority Designated Officer (LADO) within one working day (24 hours).

- 9.2. Any other safeguarding concerns regarding the welfare or safety of a child must be referred to the MASH, in accordance with usual safeguarding procedures.
- 9.3. Where an allegation has been made, even where there is doubt about whether it justifies further action, consultation **must** take place between the Head Teacher/Senior Manager and the LADO or, in their absence, the MASH. Reference to the criteria under 'Context' at the beginning of this document will be helpful.
- 9.4. Only those cases which are trivial or demonstrably false at the outset can be dealt with internally by the school. To establish this, consider questions such as:
  - Was the child in school on that day?
  - Could the child have had contact with the member of staff?
  - Are there any potential witnesses?

Remember that such communications should be limited to achieving clarification and will not amount to an interview with any party.

- 9.5. The Headteacher, in consultation with the LADO must consider the allegation and determine the appropriate way forward.
- 9.6. All allegations must be recorded clearly and accurately. Where a Strategy Discussion is required, copies of documents relating to the incident and referral details must be forwarded to the MASH using MK Multi Agency Referral and Family Assessment forms (MARF)
- 9.7. Where a Strategy Discussion is required, or Police or Local Authority's Social Care Services need to be involved, the Head Teacher should first consult with those agencies and agree what information can be disclosed to the accused person. Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the school until the allegation or concern is resolved.
- 9.8. If the allegation is not demonstrably false or unfounded, and there is cause to suspect a child is suffering or is likely to suffer significant harm, a Strategy Discussion should be initiated in accordance with the guidance *Working Together to Safeguard Children 2018*. If the allegation is about physical contact, the strategy discussion should take account of MK Together guidance (see 2.5 above) that teachers and other school staff are entitled to use reasonable force to control or restrain pupils in certain circumstances, including dealing with disruptive behaviour. It is the responsibility of the LADO to determine whether a Strategy Discussion is required and to guide that discussion in the interpretation of the guidance and assessment of risk.

## 10. OPTIONS

- 10.1 Consultation with the LADO will help to decide which of the following actions is appropriate:
  - a) An immediate referral to the joint agencies (Police and Children's Social Care) under local Child Protection/Safeguarding Procedures (see 11 below).
  - b) Further local enquiries to be made to gather more information (see 8.2 and 9.2 above).
  - c) The allegation may have been prompted by inappropriate behaviour by the member of staff but does not amount to a child protection concern. In this case, a meeting may be required by the LADO and local disciplinary procedures might follow. The following link may help with defining inappropriate behaviour:
  - d) The allegation is apparently without foundation. This situation might arise out of misunderstanding, maliciousness or possibly abuse occurring elsewhere in the child's life.

## 11. ALLEGATIONS REQUIRING IMMEDIATE REFERRAL TO THE CHILD PROTECTION AGENCIES (POLICE AND CHILDREN'S SOCIAL CARE)

- 11.1 Where a pupil has suffered, is suffering, or is likely to suffer significant harm, Children's Social Care has a statutory duty to make enquiries in order to protect the child. The harm may be of a physical, sexual, or emotional nature, or as a result of neglect.
- 11.2 Where the conduct of a member of staff is such that it compromises the safety or wellbeing of a child, seek clarification on appropriate action from the LADO.
- 11.3 Where it is alleged that a criminal offence has been committed against a child, the police will be required to make any necessary enquiries, working alongside Children's Social Care. Any physical assault (including threat) may constitute a criminal offence and *consequently the threshold of significant harm does not always need to be met*: any such allegation must be considered at a Strategy Discussion.
- 11.4 Any action that leads to the suspension of a member of staff, must be reported to Children Social Care, if there are concerns about children in the community or in their own family.

## 12. REFERRAL

- 12.1 Where the Head Teacher decides that the allegation needs to be referred as a child protection matter **they must notify the LADO without delay and within one working day**. If the LADO is not available, refer to MASH.
- 12.2 At this stage, the member of staff should be provided with as much information as is consistent with not interfering with any potential investigation about the allegation. Advice should be sought from the investigating authorities, the Human Resources Adviser and LADO in advance of this meeting.
- 12.3 The contact with the LADO should be followed up with a formal written referral to the MASH to confirm the details, using the MK Multi Agency Referral and Family Assessment forms (MARF). The LADO can advise on this.
- 12.4 Children's Social Care should acknowledge the written referral within one working day of receipt. They should be contacted if an acknowledgement has not been received.
- 12.5 Any internal disciplinary investigation should be held in abeyance pending the outcome of Police and Children's Social Care investigations. A decision will be made about the timing of any investigation at the Strategy Discussion or in discussion with the LADO.

## 13. STRATEGY DISCUSSION (MEETING)

- 13.1 A Strategy Discussion should be arranged within two working days of the receipt of the allegation or concern, with core membership consisting of:
- Local Authority Designated Officer (LADO) to chair the meeting
  - Relevant social worker and her/his manager
  - Police Child Abuse Investigation Unit (CAIU)
  - Headteacher, or
  - Chair of Governors where the allegation is against the Head Teacher.
- 13.2 The following should be invited as appropriate:
- Human Resources representatives to provide HR advice
  - Consultant paediatrician if sexual abuse alleged
  - Lead/named/designated professional for child protection for the agency in question
  - A representative of the other local authority if the child is in care and is placed in Milton Keynes, or if the alleged perpetrator is resident in the area of the other LA.
  - Complaints officer if the concern has arisen from a complaint or a complaint investigation is in progress
  - A representative of the legal department
  - A representative from the employing agency.
- 13.3 Where the Headteacher, Chair or representative of an agency is implicated through an accusation or through collusion with or failure to respond to previous complaints, it is inappropriate for her/him to attend the Strategy Discussion.
- 13.4 The Strategy Discussion (with a dedicated note taker) must:
- Share detailed information regarding the allegation/concern.
  - Review any previous allegations made against the staff member and/or the establishment.
  - Share any relevant information regarding the member of staff, including family background.
  - Share any relevant information regarding the child and family history and any current agency involvement.
  - Decide whether there should be a section 47 (child protection) investigation and/or an internal disciplinary investigation
  - Consider the implications arising from the Police decision whether or not to investigate an allegation of crime
  - Consider, if a section 47 enquiry is appropriate, whether a complex abuse investigation is applicable
  - Scope and plan the section 47 enquiry
  - Allocate tasks
  - Set timescales, including for a review meeting
  - Decide who should be given what information, how and by whom

13.5 The meeting must also:

- Prioritise any emergency action needed to protect a child
- Ensure all children who may be affected directly or indirectly are identified, considered and provided with support, including ex-pupils /residents if appropriate
- Consider (where relevant) which other local authorities should be informed
- Ensure the investigation is sufficiently independent
- Make arrangements to ensure the safety of any child known to the staff member outside of the workplace
- Make arrangements to inform the child's parents, as well as consider how to involve them in the investigation and provide support and information during enquiries
- Consider the safety of children after the enquiry
- Recommend to the employing agency or responsible authority any action required to protect the interests of children whilst enquiries are conducted, including staff transfer, suspension or removal (such action is the responsibility of the employing/responsible agency and is to be taken in the light of details of the individual case and in accordance with the employers' disciplinary policy and procedures, having taken advice from its HR provider).
- Agree who within each agency will be responsible for coordinating the investigation
- Consider the need to interview other members of staff and ex-members of staff
- Consider the need for individual support for any members of staff, including those who are the subject of allegations (e.g. through occupational health or employee welfare arrangements)
- Consider links to and impact on industrial relations, personnel issues, registration and complaints issues
- Consider use of any recording of video interviews for disciplinary purposes
- Consider the future of the establishment where it is considered that abuse has pervaded the whole staffing group with the involvement or collusion of managers
- Consider possible claims for compensation and alert insurers
- Consider notifying the DCS and/or other senior officer of the employing agency
- Identify the information to be shared with the alleged abuser\*
- Agree on management of any anticipated media interest
- Set a date for a Review Strategy Meeting

13.6 Again, the member of staff should be provided with as much information as is consistent with not interfering with an investigation about the allegation. Advice should be sought from the investigating authorities, the Human Resources Adviser and LADO in advance of this meeting.

13.7 The Strategy Discussion should set a review date within one month of the referral being received with a view to concluding the enquiry as soon as possible

## **14. MEMBER OF STAFF'S OWN CHILDREN AND OUT OF SCHOOL ACTIVITIES INVOLVING CHILDREN**

- 14.1 If an accused member of staff has children of their own, or it is known that they are involved in out of school activities that involve children, then risk to these children must also be considered.
- 14.2. If these children reside outside of this authority, or the activities with children occur outside of this authority, then it is the responsibility of local investigative agencies to notify their counterparts in the other authorities concerned.
- 14.3. Where child protection concerns occur within the member of staff's own family, there may be implications for the safety of children in their place of work too. In these circumstances consult the LADO and refer to MASH.

## **15. SUSPENSION FROM WORK AND ALTERNATIVE DUTIES**

- 15.1 The decision whether to suspend the member of staff whilst investigations take place rests with the Head Teacher and Chair of Governors. They should make an informed decision in consultation with the LADO and Police and Children's Social Care as appropriate. In some circumstances, for example where the person's presence might present an immediate or significant risk to a child, this should take place prior to the Strategy Discussion.
- 15.2 Suspension should only be considered in a case where there is cause to suspect a child or other children at the school to be at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal. However, a person should not be suspended automatically, or without careful thought being given to the particular circumstances of the case.
- 15.3 Schools should also consider whether the result that would be achieved by suspension could be obtained by alternative arrangements. For example, redeployment so that the individual does not have direct contact with the child concerned, or by providing an assistant to be present when the individual has contact with children. This allows time for an informed decision regarding the suspension and possibly reduces the initial impact of the allegation. This will however, depend upon the nature of the allegation. Schools should consider the potential permanent professional reputational damage to teachers that can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended.
- 15.4 The following criteria should be met in order to justify the suspension of a member of staff (the Headteacher and/or Governing Body should also ensure they refer to the School's Disciplinary Procedure):
  - Where a child or children is/are at risk of significant harm.
  - Where the allegations are so serious that dismissal for gross misconduct is possible.
  - Where the presence of an employee may hamper/inhibit an investigation.

- 15.5. Suspension may be considered at any stage of an investigation. It is a neutral act, not a disciplinary sanction and will be on full pay.
- 15.6 Paid leave of absence, mutual agreement to refrain from work, alternative duties/locations or removal from direct contact with pupils may be used as an alternative to suspension. These alternatives can be used if they achieve a sufficient level of safeguarding during an investigation.
- Meeting with the employee to consider suspension
- 15.7 Where suspension is considered, the Headteacher should arrange a meeting with the member of staff. The meeting must be conducted in accordance with the school's disciplinary policy and procedures.
- 15.8 Prior to the meeting, the Headteacher/Senior Manager should advise the member of staff that he/she may be accompanied by a trade union /professional association representative or work colleague for support. The member of staff should make every effort to secure representation if required. If it is not possible to identify a short-term measure, depending on the severity of the allegation, it may be necessary to proceed with the suspension meeting without representation.
- 15.9 At the outset of the meeting, the Headteacher should inform the member of staff that an allegation has been made and at the conclusion of the interview there may be a decision to suspend, whilst further investigation takes place.
- 15.10 The member of staff should also be told:
- That this meeting is not a formal disciplinary hearing or examination of the evidence, but an opportunity to make representations after the reasons for any proposed suspension has been given.
  - That he/she may have a brief adjournment prior to giving a response.
  - He/she should be given access to welfare counselling or medical advice where this is provided by the employer.
- 15.11 As with any case where an allegation has been made against a member of staff, they should be provided with as much information as is consistent with not interfering with an investigation about the allegation. Advice should be sought from the investigating authorities, the Human Resources Adviser and LADO in advance of this meeting.

#### Immediate action following suspension

- 15.12 Suspension must be confirmed in writing to the employee within any timescales outlined within the disciplinary procedure. This notification should include, the date from which the suspension is effective, the reasons for the suspension, details of the disciplinary procedure and copies of any relevant documents, plus a statement that full pay will be maintained during the period of suspension.
- 15.13 The Headteacher and the Governing Body have the authority to suspend a member of staff. The Chair of Governors should inform Milton Keynes

Council (the Director of Children's Services, or in their absence the Head of Delivery – Setting and School Effectiveness) when considering invoking the Disciplinary Policy for Headteachers i.e. the suspension and appointment of an investigating officer.

- 15.14 The Headteacher/Senior Manager should also ensure the Chair of Governors is informed that a member of staff has been suspended but should ensure that they are given only minimum information to avoid prejudicing their impartiality in any subsequent hearing or appeal in disciplinary proceedings.
- 15.15 Voluntary Aided and Voluntary Controlled schools should also ensure that the diocesan authorities are informed.

### **Persons to be informed of the suspension**

- 15.16 Parents or carers of a child or children involved should be told about the allegation as soon as possible if they do not already know of it. However, where a Strategy Discussion is required, or police or local authority children's social care services need to be involved, the Headteacher/Senior Manager should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents. They should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but the parents or carers of the child should be told the outcome in confidence. *(In deciding what information to disclose, careful consideration should be given to the provisions of the Data Protection Act 1998, the law of confidence and, where relevant, the Human Rights Act, 1998)*
- 15.17 In cases where a child may have suffered significant harm, or there may be a criminal prosecution, council social care services should consider what support the child or children involved may need. This would usually be considered through the Strategy Discussion process.
- 15.18 Senior members of staff should be informed of the reasons for suspension but only as far as necessary. Generally, this should only mean informing staff that an allegation has been made and whom it concerns. Further detail should normally be withheld.
- 15.19 The Headteacher/Senior Manager should also consider whether it is necessary to inform other members of staff. Advice should be sought from the LADO, Strategy group and HR provider.
- 15.20 In certain circumstances, the Headteacher/Senior Manager may need to provide immediate reassurance to parents and children in the setting or school. Again, advice should be sought from the LADO/Strategy Group and HR provider on this matter. Any action should be considered against the need to avoid unwelcome publicity.

### 15.21 Review of suspension

All suspensions must be formally reviewed in line with the setting or school's Disciplinary Procedure. The aim should be to ensure that suspensions are kept as short as possible.

## **16. SUPPORT FOR THE ACCUSED MEMBER OF STAFF**

16.1 Whether the member of staff is suspended or not, the impact of being subjected to child protection and/or criminal enquiries should not be underestimated. Loughton School has a duty of care to their staff and therefore the offer of appropriate support is essential.

16.2. Remember that for many staff, social networks can be substantially linked with their work. If restrictions on contact are made, extra careful consideration should be given to lines of support.

16.3. Recommended supports:

- A link person should be identified to keep the member of staff up to date with the development of the investigations. The link person will need to confirm with the investigating agencies what information can be shared and ensure that information is not withheld without good reason, and that there is not unnecessary delay in the sharing of information. The link person can also explain the processes if the member of staff is unfamiliar with how allegations against staff are normally managed.
- The member of staff should be advised to seek help from their union or professional organisation if they hold membership. This should be viewed as additional support and not as a substitute for the employer's own duty of care.
- Confidential counselling may be offered via their Occupational Health provider.
- The member of staff can also be reminded to use the services of their own GP.
- Where the member of staff has been suspended or offered duties away from their normal place of work, a senior colleague should be identified to keep them up to date with events in the setting or school. This person must be directed not to discuss the investigation, but their day to day news of setting/school matters will help reduce feelings of isolation and should assist with reintegration, if appropriate at a later date.
- The distress caused by an allegation is likely to mean that significant information might not be absorbed by the accused member of staff, particularly when they are first told.

## **17. ACTION DURING CHILD PROTECTION/CRIMINAL INVESTIGATIONS**

17.1. Staff in education settings and schools, like all organisations, have a duty to assist the police and children's social care with child protection enquiries.

- 17.2. Police should not normally conduct interviews on setting or school premises, but where this is necessary, the interviews should be conducted at reasonable times and in a sensitive manner.
- 17.3. Staff must maintain confidentiality about the enquiry, other than fulfilling their obligation to assist Police and children's social care.
- 17.4. The LADO should maintain records for each case and monitor progress by seeking regular updates from the investigating agencies, and where appropriate the Crown Prosecution Service.
- 17.5. The LADO should also clarify what information can be shared with the member of staff concerned, to ensure regular briefings.

## **18. WHERE CRIMINAL OR CHILD PROTECTION ACTION IS NOT REQUIRED**

- 18.1. Where the Strategy Discussion decides that a child protection or criminal investigation is not required, the Strategy group may recommend other appropriate action. This may include:
  - Taking no further internal action
  - Issuing an informal warning and/or professional advice
  - Instigating an investigation under the school's disciplinary procedures.

### **No further action**

- 18.2. If it is decided that no further action should be taken, the Headteacher/Senior Manager, in consultation with Human Resources Adviser, should inform the member of staff, orally and in writing, confirming that no action under disciplinary or child protection procedures will be taken. In advance of meeting the member of staff, they should be advised that they may be accompanied by a friend or union representative.
- 18.3. A record of this decision and the actions taken must be kept by all parties.
- 18.4. Consideration should be given to the provision of support or counselling for the member of staff concerned.
- 18.5. The Headteacher, after consultation with the LADO, should inform the child and parents of the outcome. If dissatisfied, they should be advised of the school's complaints procedure.
- 18.6. Consideration should be given to the provision of support for the child, and where appropriate, the parents, e.g. in respect of future contact between the child and member of staff concerned.
- 18.7. Where no further action has been decided because the allegation was demonstrably false and malicious intent was **evidenced**, a plan to address the

child's behaviour should be agreed, with the involvement of those with parental responsibility.

### **Issuing an informal warning and/or professional advice**

- 18.8 Where it is considered appropriate to offer an informal warning or words of advice, consultation should take place with Human Resources and the LADO and this should be carried out in line with the School's Disciplinary Procedure. member of staff be advised that they can be accompanied to such a meeting
- 18.9 A record of the decision and advice/warning given must be kept by all parties.
- 18.10 Any additional guidance or training required should be recorded and acted upon within an agreed plan and timescale.
- 18.11 The child and parents should only be informed that the matter has been taken seriously and that it is being dealt with in accordance with the correct internal procedures. information and outcomes remain confidential and should not be released.

### **Instigating an investigation under disciplinary procedures**

- 18.12 If it is decided that a disciplinary investigation should take place, the Headteacher consultation with the Human Resources Adviser, should appoint an Investigating Officer to conduct the investigation. The Head Teacher must ensure the investigation is conducted in accordance with the school's Disciplinary Policy and Procedure.
- 18.13. A written record of a negative outcome of any disciplinary investigation under this procedure must be retained indefinitely on the member of staff's confidential personnel file.
- 18.14. If the employee resigns before the disciplinary process is completed, without providing the appropriate notice, the employer is not obliged to accept the resignation. In all cases appropriate attempts should be made to complete the process, so that the matter can be brought to a proper conclusion.
- 18.15. 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 file, which is not open to general disclosure, together with a written record of the outcome of the investigation. If there are related child protection concerns, records may be subject to disclosure; and, therefore, no assurances can be given regarding total confidentiality.

## **19. SUBSTANTIATED ALLEGATIONS: REFERRAL TO THE DISCLOSURE & BARRING SERVICE OR REGULATORY BODY**

- 19.1 If the allegation is substantiated and the staff member is dismissed or the employer ceases to use the person's services, or the staff member resigns or

otherwise ceases to provide his/her services, the Local Authority Designated Officer (LADO) should discuss with the school and its HR provider, whether a referral to the **Disclosure & Barring Service (DBS)** for consideration of inclusion on the barred lists or to the Teaching Agency is required.

- 19.2 Loughton School has a legal duty to make a referral to the DBS where they believe that an individual has engaged in conduct (including inappropriate sexual conduct) that has harmed (or is likely to harm) a child or if a person poses a risk of harm to a child. In such circumstances, the duty to refer an individual to the DBS arises where an employer has removed the individual from relevant work with children or the person has chosen to cease relevant work in circumstances where they would have been removed had they not done so. In cases of professional misconduct, they should be referred to the relevant regulatory body e.g. the Teaching Agency in the case of teachers.
- 19.3 Referrals should be made as soon as possible after resignation or removal of the member of staff involved and within one month of ceasing to use the person's services.

## **20. AGENCY STAFF AND VOLUNTEERS**

- 20.1. Where a concern of a child protection nature is alleged in relation to a supply teacher/worker (from an agency or self-employed), trainee teacher or a volunteer, the matter should be dealt with in the same way as employed staff.
- 20.2. Where there are related concerns of a conduct or competency nature, it is the responsibility of the Headteacher, in conjunction with the LADO and Human Resources Adviser, to deal with the matter in accordance with the school's Disciplinary/Capability Procedures.
- 20.3. Liaison with a senior representative of an agent supplying a member of staff should also take place. The agent may be required to conduct an additional disciplinary investigation in accordance with its own procedures, or take precautionary action whilst the setting or school undertakes its investigation e.g. suspend from other positions
- 20.4. An agent might include, for example:
- An employment agency providing supply teachers or workers
  - A training college placing students at a school
  - A contractor providing services such as catering
  - A voluntary organisation providing people to work with children.

## **21. RESIGNATIONS AND 'COMPROMISE AGREEMENTS'**

- 21.1 The fact that a person tenders his or her resignation, or ceases to provide their services, must not prevent an allegation being followed up in accordance with these procedures. It is important that every effort is made to reach a conclusion

in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process. Wherever possible the person should be given a full opportunity to answer the allegation and make representations about it. However, the process of recording the allegation and any supporting evidence, and reaching a judgment about whether it can be regarded as substantiated on the basis of all the information available should continue even if that cannot be done or the person does not cooperate. It may be difficult to reach a conclusion in those circumstances, and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

- 21.2 By the same token so called 'compromise agreements', by which a person agrees to resign if the school agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, **must not be used in these cases**. In any event, such an agreement will not prevent a thorough police investigation where that is appropriate. Nor can it override the statutory duty to make a referral to the DBS where circumstances require that.

## **22. MANAGING THE AFTERMATH**

- 22.1 The outcome of any internal disciplinary process should be shared in writing with the LADO
- 22.2 Whether an allegation has been substantiated, unsubstantiated or unfounded a debriefing should take place, where deemed appropriate, involving the setting or school, council and other investigative agencies.
- 22.3 The impact on individuals concerned and the general morale within the setting or school should be considered so that additional supports can be put in place.
- 22.4 Risk assessments should also be considered in relation to any practices which have made either staff or children vulnerable.

## **23. ACTION IN RESPECT OF UNFOUNDED OR MALICIOUS ALLEGATIONS**

- 23.1 If an allegation is determined to be unfounded or malicious, the LADO should refer the matter to Milton Keynes Council Children's Social Care services to determine whether the child concerned, is in need of services, or may have been abused by someone else. In the event that an allegation is shown to have been deliberately invented or malicious, the Head Teacher should consider whether any disciplinary action is appropriate against the pupil who made it, or the police should be asked to consider whether any action might be appropriate against the person responsible, even if he or she was not a pupil/attendee. In September 2010 the Crown Prosecution Service published guidance for the police on harassment under the Protection from Harassment Act 1997.

## 24. RECORD KEEPING

- 24.1 Details of allegations that are found to have been malicious should be removed from personnel records. However, for all other allegations it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved and a note of any action taken and decisions reached, is kept on a person's confidential personnel file and a copy provided to the person concerned.
- 24.2 The purpose of the record is to enable accurate and appropriate information to be given in response to any future request for a reference. It will provide clarification in cases where future DBS checks reveal information about an allegation that did not result in a criminal conviction. It will also help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.
- 24.3 The record should be retained at least until the person has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer. The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on employment retention

[https://ico.org.uk/media/for-organisations/documents/1128/quick\\_guide\\_to\\_the\\_employment\\_practices\\_code.pdf](https://ico.org.uk/media/for-organisations/documents/1128/quick_guide_to_the_employment_practices_code.pdf)

## 25. DEFINITIONS OF THE OUTCOMES OF INVESTIGATIONS

The following definitions should be used when determining the outcome of allegation investigations:

- a. **Substantiated:** there is sufficient identifiable evidence to prove the allegation;
- b. **False:** there is sufficient evidence to disprove the allegation;
- c. **Malicious:** there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false;
- d. **Unfounded:** there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively, they may not have been aware of all the circumstances;
- e. **Unsubstantiated:** this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

*These definitions are based on the Government Statutory Guidance 'Keeping Children Safe in Education 2019*

## 26. USEFUL LINKS

- Working Together to Safeguard Children 2018

[http://mkscb.procedures.org.uk/assets/Documents/Working Together to Safeguard Children.pdf](http://mkscb.procedures.org.uk/assets/Documents/Working_Together_to_Safeguard_Children.pdf)

- Children & Families referral form can be obtained from MASH following an initial telephone referral – call on 01908 253169/3170
- LADO is Jo Clifford