

Appendix 2: Further School Procedures

Part of Frank Wise Policy November 2012
(OCC issued September 2011)



Allegations Against Teaching And Non-Teaching Staff In Education



**OXFORDSHIRE
COUNTY COUNCIL**

CHILDREN, YOUNG PEOPLE & FAMILIES

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Introduction	1
Summary of Key Initial Actions	2
Flow Chart	3
Restraint	4
Allegations/Suspicious of Abuse	5
Possible Action	
6	
Support for Member of Staff	7
Allegations Against Headteacher/Head of Unit	8
Supply Teachers	9
The role of the Governing body	10
Contractors Working in Environment with Pupil Contact	11
False Allegations	12
Records	
13	

1. INTRODUCTION

Why Procedures are needed.

- 1.1 The majority of people who work with children and young people do so from a position of care and concern. However, it is a fact that an extremely small number of people do seek access to children and young people, to cause them harm either physically, sexually or emotionally. Research has shown that these professionals are extremely skilled in identifying vulnerable young people and forming relationships with colleagues, which often ensure that they are not challenged or distrusted, and use the system to their own advantage. Procedures need to ensure young people have as much protection as possible from such adults.

Pupils may misinterpret actions of professionals, which, when reported to their parents could lead to complaints.

Small proportions of pupils lie about allegations to create difficulties for teaching and non teaching staff.

Under times of stress or provocation some professionals react inappropriately to pupils and may behave in an unacceptable manner.

- 1.2 When an allegation has been made concerning any employee within education they should have the case against them dealt with quickly, professionally and impartially. The document recognises the responsibility and vulnerability of education employees.
- 1.3 The child's welfare is paramount, (Children Act 1989)
- 1.4 Research shows that some "institutions" fail to protect their pupils because of over emphasis on the protection of staff and the natural reaction to believe a colleague rather than a pupil (some of whom may have been presenting difficult behaviours).
- 1.5 The system for dealing with allegations within the Children, Education and Families Directorate ensures that all allegations are dealt with in a clear structured manner using a procedure that is professional and impartial.
- 1.6 Sadly there has been an increase in litigation in this area and the procedures seek to provide protection to employees who may find themselves subject to allegations. The Children, Education and Families Service will support personnel and schools where these procedures have been adhered to.
- 1.7 The procedures refer to behaviour, which may fall into the category of child protection or inappropriate behaviour. The procedure also relates to emotional abuse of a chronic nature. Other complaints should be dealt with under the schools complaints procedure.

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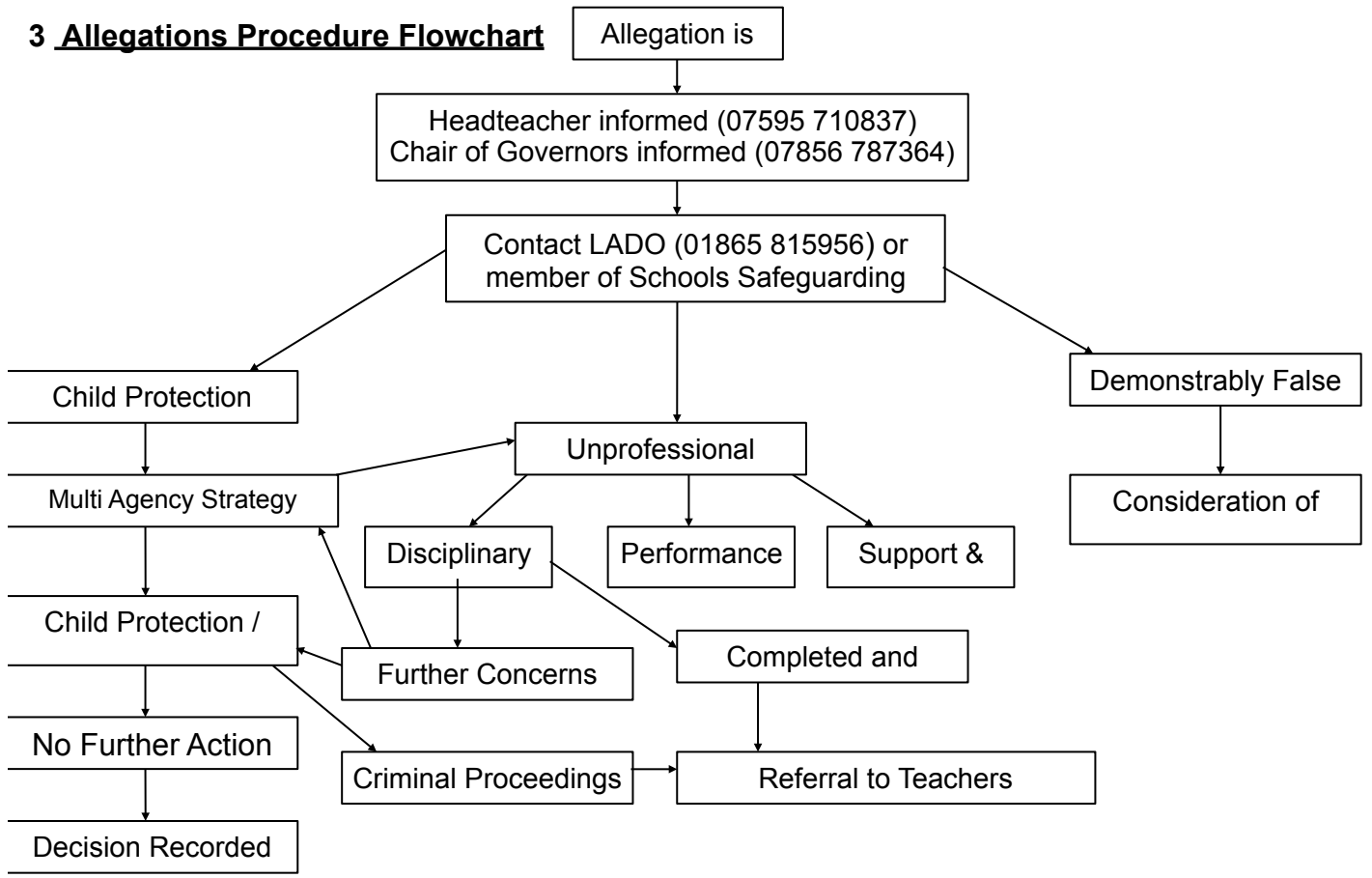
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Initial contact regarding any possible allegation must be made directly with Barry or his nominated deputies as soon as possible. If, at the point of initial contact, the team are unavailable, admin staff will contact one of the team directly where it is clear that the issue relates to a possible allegation.

2. SUMMARY OF KEY ISSUES/INITIAL ACTIONS TO BE TAKEN

1. Suspension should never be an automatic response. Appropriate criteria should be applied in all cases.
2. Do not leave the pupil alone or with other children until there have been consultations with one of the schools safeguarding officers and a course of action agreed, including the appropriateness of the pupil remaining in school.
3. Do not seek to investigate the allegation yourself or interview pupils.
4. You **must** consult with one of the safeguarding schools officers (as above).
5. Ideally obtain details of the allegation in writing, ideally signed and dated by the person receiving the allegation, and counter signed and dated by the headteacher or designated person, (but not the pupil who is the subject).
6. An investigating officer will be appointed, (in consultation with police, head and local authority) if a joint decision is made that a formal investigation is appropriate.
7. Consider the need for disciplinary action in respect of the employee where it is clear that a reportable offence has not been committed, again in consultation with local authority staff.
8. However, any disciplinary action must be kept separate from child protection investigations except when there is agreement otherwise between the designated safeguarding schools officer and those in charge of investigations.
9. Investigations by the police or assessment team will take priority over an internal investigation by the school.
10. When issues are resolved, the designated safeguarding schools officer will write to all relevant parties with findings

3 Allegations Procedure Flowchart



4. **Restraint**

Section 550(A) of the Education Act 1996 – The Use of Force to Control or Restrain Pupils –allows teachers, and other persons who are authorised by the Headteacher to have control or charge of pupils, to use such force as is reasonable in all the circumstances to prevent a pupil from doing, or continuing to do, any of the following:

- committing a criminal offence (including behaving in a way that would be an offence if the pupil were not under the age of criminal responsibility);
- injuring themselves or others;
- causing damage to property (including the pupil's own property);
- engaging in any behaviour prejudicial to maintaining good order and discipline at the school or among any of its pupils, whether that behaviour occurs in a classroom during a teaching session or elsewhere.

The provision applies when a teacher, or other authorised person, is on the school premises, and when he or she has lawful control or charge of the pupil concerned elsewhere e.g. on a field trip or other authorised out of school activity.

All schools, FE colleges and alternative providers should have a clear policy on the use of restraint as a method of intervention. Restraint should only be used in line with agreed policy.

Where physical intervention has been used as a method of restraint the school / unit should follow their policy on restrictive physical intervention and reporting of incidents as detailed in the Oxfordshire's Policy on Care, Control and Intervention, (school staff should use PUA1).

Records of restraint should be kept in a bound, page numbered book which is open to inspection from named personnel.

The only time restraint would fall into a category which would need to be referred to the Assessment Team or the Schools Safeguarding Team would be when the pupil has marks or bruising which have been sustained through the use of inappropriate physical intervention or where a parent / carer makes a complaint.

5. ALLEGATIONS / SUSPICIONS OF ABUSE

- 5.1 Allegations are received in a variety of ways. Usually these are:
- Direct complaint by pupil to another staff member/Headteacher.
 - Direct complaint of a parent/carer to another staff member/teacher.
 - Concerns raised by parties who may have been told about or witnessed abuse.
 - Direct contact by parent/carer to the local authority
 - Anonymous referral
 - Direct complaint to the assessment team or the Police
- 5.2 If an employee is informed about a possible allegation they should immediately notify the Headteacher/Unit Manager directly.
- 5.3 Where the allegation is against the Headteacher the Chair of Governors or the nominated Governor should be informed.
- 5.4 Police and assessment team staff should always make direct contact with the LADO or member of the Schools Safeguarding Team, where the allegation is made through their agency.
- 5.5 If the allegation is made to a member of attendance and engagement team they should make direct contact with the LADO or member of the Schools Safeguarding Team.
- 5.6 If the allegation is against the Headteacher it should be reported to the LADO or member of the Schools Safeguarding Team
- 5.7 **Under no circumstances should head teachers/ Governors/ unit managers conduct their own investigation until the matter has been agreed with the LADO or member of the Schools Safeguarding Team / Assessment Team or Police. Attempts to do so could seriously hinder any further investigation and reduce professional impartiality.**
- 5.8 All allegations should be referred to the LADO or member of the Schools Safeguarding Team. **There should be no time delay and care should be taken to maintain confidentiality as in child protection procedures.** The school or the unit should not commence an investigation before agreement is reached with LADO or member of the Schools Safeguarding Team
- 5.9 It should be stressed that all matters relating to allegations are dealt with under Oxfordshire's Child Protection Procedures and therefore confidentiality is essential. Information should be shared on a "need to know" basis only. All documentation should be carefully stored.

5.10 The Headteacher, Line Manager or the Chair of Governors or (nominated Governor) will discuss their understanding of the situation to the LADO or member of the Schools Safeguarding Team including issues such as the context of the allegation and previous concerns about the member of staff or pupil. Following this discussion the level of concern will be determined in consultation with representatives from the police and the Assessment Team. This may lead to a strategy meeting being convened involving the Headteacher (or nominated Governor) a police officer, LADO or member of the Schools Safeguarding Team.

6. POSSIBLE ACTION FOLLOWING AN ALLEGATION

6.1 No further action.

Headteacher/Manager to communicate this to parents/employer. Where there are concerns that the allegation may be false or malicious consideration needs to be given as to the issues that the pupil may be facing.

Headteachers / managers should:

- inform the parent/carer in writing of a decision to take no further action or a view that there has been a false allegation;
- Inform (verbally and in writing) the relevant employee that an allegation has been made and that no further action will be taken. The employee can have a friend or trade union representative during this discussion;
- Make appropriate arrangements to offer support to employee;
- Determine whether the pupil needs further support or whether the allegation could be an indicator of other concerns (e.g. abuse elsewhere);
- Prepare a report giving reasons for the conclusion that the allegation is without foundation and stating the action taken (as above)
- Clearly state on the member of staff's record that the staff member has been exonerated and consideration of disciplinary proceedings are not necessary.
- Consideration given to what action is required to avoid a repeat of the allegation i.e. is a planned transfer appropriate?

6.2 Possible inappropriate behaviour

The Service Manager Attendance & Welfare and the Headteacher and/or representatives of the Assessment Team or Police will agree that this matter falls into the category of inappropriate behaviour as opposed to child protection.

A timescale will be agreed in which the school should complete an investigation and send a report to the Service Manager Attendance & Welfare. An agreement will be made as to who will inform the parent/carer of this course of action.

The Headteacher should arrange for an investigation to be undertaken by a senior member of staff advising that the investigation may become part of disciplinary procedures.

Where the investigation is to be conducted internally for inappropriate behaviour:-

The investigating officer should:

- Define the areas to be investigated;
- Draw up a provisional list of those to be interviewed and the content for discussion. This should include firstly interviewing the alleged victim and any witnesses, (if the incident occurred in a class room then a random selection of pupils could be interviewed). The alleged perpetrator should be interviewed last;
- Check corroborative evidence;
- Assess the credibility of the person making the allegation.
(In doing so consideration should be given to the issues of listening to children and young people and to any power differential.)

If at any point the investigator becomes aware that there may be child protection issues emerging the investigation should be halted and referred under the child protection procedures, directly to the Assessment Team and inform the designated officer for schools.

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Statements made should be read and signed and dated by the witnesses.

Staff interview

The person subject to the allegation should be informed of:

- His/her rights under the schools disciplinary procedures including right to representation
- The allegation and invited to make a statement

- The right either to respond (or decline to respond) and to be represented prior to giving a response

Full notes should be taken and the member of staff invited to read and sign them as a true record of the interview, (copy to be made available to the member of staff).

Persons identified by the member of staff as having relevant information should be added to the list to be interviewed as part of the investigation.

On conclusion of the investigation a report should be produced, (which remains confidential) and recommendations made in relation to future action. Consideration should be given to the need to refer back to child protection procedures / consider suspension / refer the report under disciplinary procedures.

Where disciplinary action is being considered there should be consultation with the relevant Officers from Human Resources and the LADO or member of the Schools Safeguarding Team and the county disciplinary procedures should be followed. A copy of the investigation report should also be sent to the appropriate Officer in Human Resources and LADO or member of the Schools Safeguarding Team

The Headteacher should retain records of the investigation including statements in a secure and confidential system.

On consideration of the report the designated officer will write to the parent/carer of the pupil involved and the staff involved informing them of the outcome of the investigation. A copy of both of these letters will be sent to the Headteacher.

In some situations the designated officer for allegations will discuss specific courses of action which may assist in the prevention of similar situations occurring.

Where an investigation is likely to follow child protection/criminal process:

Where there are marks/bruising to a pupil, complaints of assault or concerns of a sexual nature then there is a strong possibility that this will be treated as a child protection referral. In such circumstances swift action is vital.

- Where the child is injured, medical treatment will need to be considered as a priority.
- Where it is agreed that Child Protection Procedures need to be followed the designated Service Manager Attendance & Welfare will inform the Headteacher/Line Manager and ask them to notify the employee that an

allegation has been made against them and to advise him/her to contact their professional association.

- A child protection investigation may need an initial investigation by the police or Assessment Team or a joint investigation.
- Any such investigation takes precedence to any possible disciplinary issues or action that the school wish to take.
- The investigation will be undertaken in line with Oxfordshire Child Protection procedures, which may include a strategy meeting or strategy discussion including relevant personnel.

Details of the complaint must not be discussed within the school/unit and the Headteacher/Line Manager should ensure that confidentiality is maintained at all times.

The alleged victim/witness/adult etc should not be interviewed.

It may be necessary to hold a strategy meeting prior to the investigation taking place. Under such circumstances those present would usually be – LADO or member of the Schools Safeguarding Team, and/or Designated Schools Safeguarding Officer, Assessment Team Manager or Social Worker, Police representative, Headteacher/Line Manager (as appropriate).

Suspension

At the time of discussion with the LADO or member of the Schools Safeguarding Team and/or the Human Resources representative, the Headteacher/Line Manager's view will be sought in relation to the risk to other children from the alleged perpetrator.

If the Headteacher has no concerns then the employee should continue working within the school. Provision would need to be made to avoid contact with the victim where possible. Suspension should not be used unless absolutely necessary and only with reference to the County's disciplinary procedures.

If the Headteacher has concerns about the welfare of the alleged victim or any other pupil then steps should be taken to suspend the employee in accordance with the appropriate discipline procedure.

If the LADO or member of the Schools Safeguarding Team or Human Resources representative/appropriate Manager Assessment Team/Police have grave concern about the safety of others which is not agreed by the Headteacher/Line Manager they may inform the Chair of the Governing Body of their concerns and request a revision of the decision. In extreme circumstances the Director for Children, Education and Families may be asked to intervene.

The LADO or member of the Schools Safeguarding Team will liaise with the Assessment Team, the Police and keep the Headteacher informed of the situation.

On completion of the Child Protection investigation there could be:

- a) A review meeting between appropriate staff in the Assessment Team/ Police/ LADO or member of the Schools Safeguarding Team, Human Resources Officer and the Headteacher, to share findings.
- b) Prosecution of alleged perpetrator and internal disciplinary procedures.
- c) Communication to the parents from social worker.

The LADO or member of the Schools Safeguarding Team will liaise with Headteacher / Line Manager to discuss the findings of the investigation with them. It is then for the Headteacher, in consultation with the relevant officers, to determine the appropriate course of any further action. In some circumstances this could lead to disciplinary action. If this is the case the Headteacher should then liaise with the appropriate personnel representative.

The LADO or member of the Schools Safeguarding Team will then write to the alleged perpetrator, parents and Headteacher informing them of the outcome of the investigation.

7. SUPPORT FOR MEMBER OF STAFF

Obviously being the subject of an allegation can cause distress to the member of staff. It can also cause distress to the whole school/community. The LADO or member of the Schools Safeguarding Team and/or the relevant Officer from Human Resources will advise the Headteacher and where appropriate the employee, if it is felt necessary to find external support for the member of staff. Alternatively this may be requested by the individual subject to the allegation.

When a member of staff is suspended they will be offered the opportunity to be linked to the Inspector/Adviser for their school. Some schools may choose to also offer a link to a named member of staff. As much as possible staff subject to allegations will be kept informed of the status of any investigation.

Employees should also seek advice from their professional association. Schools may also want to offer counselling to the staff member through for example, Oxfordshire's Occupational Health Service.

Under any circumstances it is important to identify support for the staff member from the outset.

8. ALLEGATION AGAINST HEADTEACHER'S / HEAD OF UNIT

When the allegation is made about the Headteacher (or a Head of Unit) direct contact should be made with the Service Manager Attendance & Welfare.

- The LADO or member of the Schools Safeguarding Team will follow procedures in relation to having a discussion with the Assessment Team support to determine whether thresholds for child protection are met.
- The LADO or member of the Schools Safeguarding Team will inform the Chair of Governors of the relevant school and the relevant schools senior adviser and relevant Officer, Human Resources.
- The LADO or member of the Schools Safeguarding Team & Welfare/ Chair of Governor/Adviser will contact the Headteacher/Head of Unit to inform them of the allegation.
- If the allegation falls into the category of inappropriate behaviour the Chair of Governor can take advice from the LADO or member of the Schools Safeguarding Team and/or relevant Officer Human Resources about how best to proceed.
- If the allegation is deemed to be Child Protection the normal procedures will apply.
- The Chair of the Governing Body will consider the need for suspension in consultation with the LADO or member of the Schools Safeguarding Team and relevant officer Human Resources. Suspension will only be used if it is considered that the Headteacher poses an on-going risk to pupils.

9. SUPPLY TEACHERS

When a supply teacher is contracted to work in a school the Headteacher should ensure that the supply teacher is made aware of the schools procedure in relation to care and control of pupils, including the use of physical intervention and child protection procedures.

10. THE ROLE OF THE GOVERNING BODY

Issues relating to allegations are of a confidential nature in accord with Oxfordshire's Child Protection Procedures. Therefore, information should only be shared on a "need to know" basis.

For example, it may be appropriate for the Headteacher to share some issues about suspension/impact on the school community with the Chair

of the Governing Body. Governors who are involved in possible child protection issues should have had an appropriate disclosure check and ideally appropriate training.

Other members of the Governing Body should neither become involved in, nor have details linked to the allegations. Any such knowledge would prejudice their possible involvement in any future appropriate action which the Governing Body may be advised to take. In addition the Governing Body has to be clear that it is not taking any action that would prejudice the position of the individual under investigation.

When the allegation refers to the Headteacher, the Chair of the Governing Body may be involved, as outlined above in allegations against the Headteacher. When the outcomes of the investigations are known and it is appropriate for the Governing Body to deal with the matter, the Chair will then decide the course of action to be taken. This will be within the schools' agreed procedures. No other members of the Governing Body should be involved in any proceedings before this stage. In the event of the Chair being unavailable the Vice Chair would be expected to act on behalf of the Governing Body.

11. CONTRACTORS (OF ANY ORGANISATION) WORKING IN ENVIRONMENTS WITH PUPIL CONTACT

When an allegation is received in relation to the above, the employer should notify the LADO or member of the Schools Safeguarding Team of their procedures for handling the allegation.

It is expected that those issues which are of a child protection nature should be referred to the Assessment Team / Police.

12. FALSE ALLEGATIONS

Where (following consultation and investigation) the Headteacher believes that the allegation is without foundation, he/she should:

- (i) consider with Assessment Team Manager and/or LADO or member of the Schools Safeguarding Team whether the child might have been abused by someone else
- (ii) inform the employee at a formal meeting that no further action is to be taken under disciplinary or child protection procedures (the employee may be accompanied by a union representative or friend)
- (iii) consider whether support, counselling and/or informal professional advice for the employee is appropriate and the form this might take
- (iv) inform the parents of the child/children of the allegation and the outcome

- (v) consider appropriate counselling and support for the child/children and parents particularly where a false/malicious allegation has been made. The need for disciplinary action against the child should be considered at this stage
- (vi) prepare a report embodying (i) to (V), to be copied to the employee, recording that the allegation is without foundation

13. RECORDS

The LADO or member of the Schools Safeguarding Team must keep documents relating to an investigation and must retain a written record of the outcome. Where disciplinary action has been taken against an employee, a copy should be retained on the personnel school confidential file in accordance with the school's disciplinary procedures. Where a pupil has made an allegation, a copy of the statement or record made of it must be kept on the section of the pupil's personal file which is not open to disclosure together with a written record of the outcome of the investigation. If there are criminal or civil proceedings, records may be subject to disclosure. Therefore no assurances can be given of confidentiality. Details of outcomes of disciplinary or criminal investigation should be passed to relevant personnel sections.