

Allegations of Child Abuse. (All)
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1 Introduction

In November 1992, the Coventry Child Protection Committee agreed inter-agency guidelines relating to allegations of abuse by professionals/workers. Interim guidelines were issued to schools in March 1994, and same interim guidelines were included in the revision of the inter Agency Guidelines published in July 1995.

This current revision has taken in to account some of the learning since the issue of interim guidelines in March 1994, but the guidelines will still be subject to review in the light of experience. This document represents the current summary of the procedures which should be followed in dealing with child abuse allegations against an employee. It has taken into account DCSF circulars 10/95 and 11/95 which largely confirmed our existing practice.

Following discussion with the Education Service's Child Protection Reference Group the format of this document was amended so that advice and background information is in italics, while "instructions" on the procedures to be followed are in normal typeface. The aim of this is to signpost the procedures, while retaining advice and explanation in the same document.

While consideration of child protection must be paramount in operating these procedures, the need must be recognised to safeguard teachers and other employees

against the effects of false and malicious allegations. In considering the planning of any investigation, the interests of the child will take priority, but attention must also be given to the welfare of the accused employee. The investigation should take into account the need to minimise the stress on an employee who may have been wrongly accused of serious offences.

2 Management of the process

(Important Note: The Education Act 2002 requires the Governing Body of each school to determine whether the responsibility for any dismissals that might arise from invoking these procedures be delegated to the Head Teacher, or remain the responsibility of the Governors. If the former is decided, then care must be exercised throughout the procedure to ensure that the Head teacher is not involved in the case prior to the stage at which a decision to dismiss may be made. In this respect, further references to this paragraph will be made throughout this document.)

Every school should have a nominated "Child Protection Link Person". In primary and special schools this may be the Head (but see previous paragraph). It is important that arrangements are in place to cover the reporting of child abuse allegations if any such designated member of staff is not available. These arrangements should be publicised within the school.

The principals of this guidance will apply to anyone dealing with such complaints. Heads should have in place clear guidance as to when they would become involved in the process. Arrangements should be made so that it is clear who will handle such issues during periods when the school is closed, and/or the Head Teacher is away on holiday. It is important that all involved in the child protection procedures, including those who may cover in the Head's absence, receive appropriate training in the procedures, recognising that the resource implications will need to be addressed.

3 Physical Intervention and restraints

The law recognises certain justifications for the use of physical force, for example, self defence and the prevention of crime. It is recognised that on occasion a teacher, or other staff member, in the course of his/her duty, may need to use physical intervention to restrain pupils.

An example may be to break up a fight, or protect a child in immediate danger of harming him/herself, others or of seriously damaging property.

Teachers who intervene physically to avert an immediate danger will be protected in the eyes of the law, provided they use reasonable and moderate force. (A separate guidance document on the behaviour management of children, including reference to physical restraint has been issued to schools.) Recording the incident is one of the most important steps in the process, as part of establishing the validity of the action taken.

4 Obligation on staff

Any member of staff who hears an allegation of abuse against any other members of staff should report the matter to the Head Teacher (or nominated person – see para. 2), unless the allegation is against the Head Teacher.

In the case of an allegation against a Head Teacher, the members of staff should contact the Education Officer (Child Protection) who will immediately inform the Director. If the Education

Officer (Child protection) is not available, the allegation against a Head Teacher should be reported to the Director of Children, Learning and Young People directly. The Director will then co-ordinate any action under these procedures, liaising as necessary with the Chair of Governors.

In talking to children, a member of staff should not offer total confidentiality and while encouraging confidence to allow a child to speak freely should make it clear that in certain circumstances the matter may have to be taken further. While there may be circumstances where a child indicates that they do not wish a disclosure to be reported, the member of staff who hears the original disclosure should always discuss the matter with the Head teacher (or nominated person – see para 2). The only circumstance in which this should not be done is if it is quite clear that the allegation could not have any foundation, (for example because the child was not in class on the day in question). The Head Teacher (or nominated person) should then deal with the allegation or suspicion within the terms of these guidelines.

5 Involvement of Trade Unions

As soon as any employee is informed of allegations against him or her under these guidelines, he or she should be advised immediately to seek trade union or other appropriate advice on responding to the allegations.

6 Guidelines on Procedure

The following advice is supplemented by a "flow chart" which can be found at Appendix 1 to this guidance. The number on that chart refers to the appropriate paragraphs of this guidance.

The Initial Stages

1. Allegations or reports of suspicion can be reported in a number of ways, including direct to the police or Social Workers, etc. It is expected that a report to another agency will result in a strategy meeting in which the Head Teacher or his/her nominee (see para 2) will become involved. This guidance is primarily aimed at those reports which come initially to the school, and which are related to employees.

2. Any allegation, or report of suspicion should be properly recorded as soon as possible.

Gather the facts that are available to you, and record them. Listen to the child. If you are not clear what has happened, you may ask witnesses to describe what happened, but do not ask any leading questions. The purpose at this stage is only to be clear what is alleged to have happened, and whether it could have happened.

Record questions and answers. Do not carry the process beyond gathering information about the allegation into beginning an investigation. Unnecessary interviews with child complainants could prejudice the integrity of evidence that may eventually have to be presented in court.

There are particular problems with regard to gaining information from children with limited communication skills and care should be taken that appropriate means are used to find out

what the allegation is about without "leading" the child. Only staff with appropriate communication skills should be involved in this process.

3. If the allegations or report concerns an employee, (of the City Council, or in the case of a voluntary aided school of the governors) or a volunteer working on the council/schools behalf, the matter should be discussed with the Councils Child Protection Co-ordinator, alternatively contact the Education officer (Child Protection), who will liaise with the Child Protection Co-ordinator. (See the end of these guidelines for names and contact numbers).

In considering whether there is evidence of abuse, remember that a pattern of small incidents may be as important as one serious incident. The Child Protection Co-ordinator will, among other things, be looking for such patterns.

4.

In all cases where the alleged abuser is a parent, carer or someone else in the community, and not an employee, always contact the local Children and Family Service Team. In an urgent case out of normal office hours contact the CLYP Emergency Duty Team.

5. The Co-ordinator will discuss with you whether the matter should be referred for a formal Child Protection Investigation, or is more suitably dealt with under the disciplinary or complaints procedures. The aim of this discussion is to agree on the appropriate course of action on an informed basis. In the vast majority of cases the Head (or nominated person) and the Child Protection Co-ordinator will agree on the action that is needed. However Heads will recognise that the Co-ordinator has the lead role in ensuring that the interests of the child are protected through the child protection procedures.

6. The employee should not be told of the allegations until the Child Protection Co-ordinator agrees to this course of action, after considering the welfare of the child. The expectation is that in most cases the employee will be immediately informed of any allegations, but in the case of alleged sexual abuse, (or other rare cases requiring special action to protect the child), the Child Protection Co-ordinator will ask for a delay in informing the alleged perpetrator to ensure that the child is protected, and evidence secure.

The principal must be followed that the employee should be informed of the allegation as soon as possible. This should normally be within a week of the allegation and should usually be much sooner. As soon as an employee is so informed, he or she should be strongly advised to seek immediate trade union or other appropriate advice.

7. The Child Protection Co-ordinator will lead any child protection investigation with the appropriate CLYP team, the police and any other agencies that are involved, and will act as a channel of communication with schools. It would normally be the case that in the event of an allegation against an employee which is likely to require full operation of the Child Protection Procedures, there will be an inter agency strategy meeting, to which the Head Teacher (or nominated person) will be invited, which will determine the appropriate action.

Suspension

8. Where it is clear from the start that there is a likelihood of serious disciplinary action, which could include dismissal, the employee should be suspended in accordance with the disciplinary procedures. (Please refer to Para.2 "Management Process" regarding role of Head Teacher). The referral of a matter for formal investigation under the Child Protection procedures would usually be a justification for suspending the employee until investigations have been completed.

9. *Suspension may be necessary:-*

- *if a child or children are at risk*
- *where the allegations are so serious that dismissal for gross misconduct is possible.*
- *where suspension is necessary to allow the conduct of the investigation to proceed unimpeded.*

10. *Suspension does not imply a finding of guilt but is intended to enable a dispassionate investigation of the facts, unimpeded by interpersonal tensions. Any employee who is suspended must be informed immediately of the reason for suspension, and of their rights to representation.*

11. At any stage in the process as soon as it becomes clear to the Head teacher (or nominated person – see para. 2) that the conduct of the employee, if it happened, could be regarded as gross misconduct (i.e. conduct which, if proven, goes to the root of the contract of employment), then it is important that the employee is suspended. If this is not done, it could undermine any case for dismissal, because the employer has not immediately treated the alleged conduct as so serious as to require suspension. Clearly the decision on suspension will only be made once it is established there is a case to be investigated. So such action will only follow the initial gathering of the facts to determine that the alleged misconduct could have occurred, and that there is evidence which needs investigation. It must be re-emphasised that taking action to suspend does not imply any finding of guilt.

12. It is practice when considering suspension to meet with the employee concerned to inform him/her that allegations have been made which are likely to lead to suspension pending investigation. Ideally this should be done at a meeting to which the employee may bring a friend or a union representative.

The employee should be given as much information as is consistent with the need not to interfere with an effective investigation.

13. The employee should be given the opportunity to make representations concerning the need to suspend his/her contact of employment, before the decision is confirmed. It is however recognised that there are, on occasion, urgent needs to suspend which do not permit such a meeting, but if this is the case, the decision should be the result of a positive consideration of the issue.

14. If a serious disciplinary issue is not immediately established, it may still be wise to take steps to avoid contact in the short term between the member of staff and the child until it has been determined whether the matter should be dealt with formally or informally.

15. In such circumstances where it is not immediately clear it is necessary to suspend the member of staff, consideration may be given to instructing him or her to go home. This should not be lightly used as an alternative to suspension where suspension would be appropriate.

16. While recognising that a child has a legal entitlement to education it may in some circumstances also be appropriate to ask the parents that the child remain at home until the matter has been further investigated. It is vital that any such investigation is undertaken very quickly. As soon as it is clear that serious disciplinary action is likely then any instruction to an employee to stay at home should be converted into suspension.

17. As soon as it becomes clear that an allegation is unfounded, the lifting of suspension should be recommended to Governors and the employee should return to normal working as soon as possible. Head Teachers/nominated persons and managers should remember the need to continue to support a member of staff who has been the subject of unfounded allegations in the process of returning and re-establishing themselves at work.

18. Similarly there may be a need to support children and parents who have made allegations which are not upheld in the process of restoring normality after an investigation. Particular attention may need to be given to the particular needs of the children who have made false or malicious allegations. Such situations need to be followed positively to restore a disturbed situation after a crisis

Assistance may be available from the Education Psychologist Service or from the Children and Families Service or other specialist agencies. The Education Officer (Child Protection) may be a useful sounding board for a Head Teacher (or nominated person) to discuss what may be available and appropriate.

19. If it is clear that disciplinary action is necessary, but at a low level, then it will be a matter of judgement whether the suspension should be lifted. In such a case, to avoid any repetition of the misconduct or misjudgement which led to the allegation, support counselling and training for the employee concerned is likely to be essential, in addition to any disciplinary action.

Support for the "Accused" as well as the Complainant

20. Heads (or nominated person – see para 2) must ensure that the employee who is subject to an allegation of child abuse is provided with the opportunity for personal support by someone who is not involved in pursuing the allegation. This should be additional to ensuring the employee has the opportunity to contact their trade union or professional association. You should seek the assistance of the Services for Schools Team in arranging this support. (If informed, the Director of Children, Learning and Young People will make such arrangements where the allegation is made against a Head Teacher).

21. If the case is not referred under Child Protection arrangements, but in your professional opinion you consider that further action is necessary, then the allegation should be investigated under the disciplinary or complaints procedures.

22. Clearly any case of striking or otherwise physically chastising a child is at first sight a reason for disciplinary investigation, not least because corporal punishment is illegal.

Some General Principles on Investigation

23. The purpose of an investigation is to collect facts whilst they are fresh in people's minds. It is important that the emphasis is on establishing the facts. An investigation should not begin with any preconceived view about the validity or otherwise of the allegation. As soon as it is clear that there is an issue to be addressed, the person against whom any allegation is made

should be given the right to be represented by their trade union or a friend, and the opportunity to offer an explanation.

24. Before holding an interview with the employee that may lead to suspension, it should be established, as a matter of urgency, whether or not there is sufficient substance in an allegation to warrant an investigation. Although it is important to act quickly, the following action should be considered first:

a) Complaints and allegations should be recorded in writing, preferably by the complainants in their own words; signed and dated. In the cases of allegations by young children and those with special educational needs, it is acknowledged that a written account will not be possible. There may be a clear situation where a complainant, though identifiable, does not wish him/herself to make a written complaint. Any such oral complaint should be recorded in writing by the person receiving it, with details of the complainant. In such cases the Head (or nominated person) should make an account in writing of his/her discussions with the pupil/student/parent. This account should cover all relevant points raised by the pupil/student/parent and should be signed by the Head/nominated person.

b) If the first complaint or allegation is in writing, as soon as practicable a meeting should be held with the person making the complaint or allegation. The basis and substance of the complaint or allegation should be explored at the meeting. Care should be taken to avoid leading questions, particularly if the complainant is a child. Notes should be taken of what is said at the meeting, and particular attention should be taken of any possible witnesses.

c) In appropriate cases, information should be obtained from senior staff at the school. There may also be occasions when wider enquiries of staff would be appropriate. All discussions with staff must be on an entirely confidential basis, but the right to representation should be available to any witnesses.

d) A view should then be reached on whether or not it seems likely that a full investigation should take place. In the case of any allegation with child protection implications, the decision on the nature of any further investigation will depend on the discussions with the Child Protection Co-ordinator referred to at Section 5 above.

e) The Head/nominated person – see para 2) will explain to the complainant, the possible consequences of the allegation for the employee involved, and the fact that the person making the complaint may not be able to escape some consequences, if the allegations are exaggerated or frivolous.

25. Establishing a need to investigate an allegation is not the same as forming a view on whether or not an allegation is to be believed. Only subsequent investigations of all the facts and a properly convened hearing can enable conclusions to be reached fairly. The timing of any school investigation will depend on whether a Child Protection investigation is carried out.

26. The results of the Child Protection investigation will be fed back to the Head teacher of the school in due course. (Children and Families Service has committed to providing feedback within 3 weeks) it is then up to the Head teacher/nominated person to hold a local investigation to determine on behalf of the employer what action is necessary.

27. Such an investigation should **always** be formally undertaken even if on the one hand the employee has been exonerated by the Child Protection Procedures or on the other hand has been convicted. Clearly in these two cases the investigation may be a formality, but action

under the contract of employment cannot be delegated to a third party, and it is important for the employer to reach a formal view as to the result of the allegations. In other cases where there is no prosecution or no conviction there may still be a need for a disciplinary investigation and disciplinary proceedings. The burden of proof is different in the case of disciplinary action, and an employee may be judged to have committed a disciplinary offence even if his or her conduct is not subject to legal proceedings, or even if they are found not guilty during those proceedings.

28. Where the allegation involves a Head teacher, the results will be reported to the Director of Children, Learning and Young People personally. The Director will also co-ordinate the local investigation, and liaise with the Chair of the Board of Governors in the event of any possible disciplinary action.

In relation to the flowchart at appendix 1, in the case of an allegation against a Head Teacher, for "Head Teacher" read "Director of Children, Learning and Young People" in consultation with the Chair of Governors".)

Confidentiality and the Management of Information

29. It is vital to retain confidentiality as to the identity of the children involved in any allegation and any deliberate or negligent breach of such confidentiality would be regarded as a serious offence.

30. It is also important that any release of information does not impede the effectiveness of any child protection investigation. Any wish to release information should, if there is any doubt as to whether it may have an impact on the investigation, be discussed with the Child Protection Co-ordinator.

31. It is also in the interests of an employee who has been suspended, but whose conduct has not yet been investigated, that publicity should be kept to a minimum to avoid unnecessary damage to his/her reputation. However unofficial communications in schools are always active and it is rarely possible not to explain a staff absence in some way. However in sharing information head teachers/nominated persons should consider the need to manage the release of information and to take advice initially from the Director who may also consult the Council's public relations experts.

32. If a suspension has taken place, the school's Chair of Governors should be immediately informed, and at an appropriate time governors in general should be informed of the fact of a suspension. However the minimum of detail should be given as to the circumstances to avoid compromising the impartiality of governors in any possible disciplinary procedure.

33. The parents of the pupil concerned, and the pupil if mature enough, should be informed of any suspension. They, and the complainant, if a different person, should be kept informed of the general progress of any investigation.

34. Head Teachers/nominated persons (see para. 2) will need to brief senior colleagues in the school, though again without details of the allegation. It will be a matter of judgement as to how widely other staff, parents and the wider community will need to know of an investigation. The Head Teacher/nominated person should consider carefully and keep under review who is informed of the suspension and investigation and to what extent confidentiality can and should be maintained. This will wholly depend on the circumstances of the case.

35. In a situation where a matter becomes common knowledge or the subject of rumour and speculation it may be necessary to provide an accurate statement for public information. The head will need to take advice on such matters from the Director of Children, Learning and Young People. The important issue is for the management of information to be planned as part of the management of the impact of an investigation on the school. The need to maintain confidentiality and avoid unwelcome publicity will be in the interest of the school, the accused employee and children concerned.

The Disciplinary Process

36. If there is substance in an allegation, then consideration should be given to the need for disciplinary action. The disciplinary process is not dependent on the progress of the police investigation or criminal proceedings, and the burden of proof in a disciplinary is different to than in a court of law. Any disciplinary action must comply with the agreed procedures in the HR Handbook. Head Teachers may wish to seek the advice of their HR Adviser on such matters. (Also – please refer to Para 2)

37. Whether a disciplinary hearing can be arranged will depend on what evidence is already available. From their interviews with the child involved, any other child witnesses, the police may be able to provide information after the completion of the child protection investigation. Liaison with the Police should be through the Child Protection Co-ordinator. In addition the school may have been able to gather sufficient evidence from its own separate investigation to take action with confidence. A final test will be whether it can be demonstrated that a reasonable investigation into the facts has been undertaken. Schools may wish to seek advice from their HR Adviser before reaching a decision on proceeding.

38. A decision on suspension may need to be taken very early, once it is established that there is a case to answer. However in the case of allegations which are referred for police investigation, no separate local internal investigation should be considered until the police have completed their initial investigation and had the opportunity to decide whether to pass the case to the Crown Prosecution Service. Once that decision has been taken the Head/nominated person should consider what information may be needed to consider local action, and begin their investigation while matters are fresh in the minds of witnesses.

39. In the event of a wish to start such investigation before the completion of legal proceedings, there should be liaison with the police through the Child Protection Co-ordinator or Education Officer (Child Protection) so both sides are aware of the stage the case has reached. The police may, if appropriate, allow Heads/nominated persons to view (but not take copies of) statements and video interviews, to assist in disciplinary proceedings and avoid the need to interview children twice. Discussions have been held with the police and Crown Prosecution Service to clarify the arrangements, but individual cases may have different timescales. The aim should be to avoid child witnesses being interviewed twice, but on rare occasions this may be inevitable.

40. Where any document or report is to be relied on by the Head Teacher or any Governors Sub Committee as part of the disciplinary process, it will be given in advance to the employees' representatives, in accordance with the agreed procedures. This requirement may influence the judgement of Police and Crown Prosecution Service on the timing of the use of particular information for disciplinary action, bearing in mind their wish to ensure that any prosecution is not compromised.

41. Guidance from DCSF in Circular 10/95 makes it clear that it would not be good practice to have parallel investigation undertaken at the same time, and that the police and child protection investigation take priority. The local arrangements provided that the local school investigation will not start until the police investigations have been completed to their satisfaction and that the local investigation should seek to draw on the evidence collected from children etc. by the police.

42. However once the police investigation has been completed, and after liaising with them, if necessary through the Child Protection Co-ordinator, the local investigation should start as soon as possible while issues are fresh in the memory of witnesses. It should be remembered that the local investigation may need to cover a wider range of issues than the child protection investigation.

43. When the local internal investigation has been completed, a decision should then be taken whether to proceed to disciplinary action. In deciding when to proceed to such action Head Teachers/nominated persons will need to consider, with appropriate advice, a number of factors including:-

The need to take prompt action in cases where there is clear evidence of misconduct without further investigation.

The need to avoid extended suspensions, where it is possible to resolve a case before court proceedings are finalised.

The extent to which the definitive case relies on evidence that has been gathered by police and will only be released at the end of their proceedings.

The desirability of avoiding interviewing vulnerable children twice.

A judgement as to the strength of the evidence already available.

Because of the difference in burden of proof it is not uncommon for disciplinary and legal proceedings to have different outcomes. Disciplinary action may even be taken after an individual has been found not guilty in court, if there appears after the local investigation to be justification for action.

Timing of Disciplinary actions

44. The one area of advice it has not been possible to agree with the trade unions, is concerning the timing of disciplinary investigation and procedure in cases where child protection proceedings have been commenced. The view has been advanced that disciplinary action should not be taken until any court proceedings concerned with child protection have been completed. It is however clear and unequivocal management advice that, providing evidence is available, it is proper to take disciplinary action in advance of any court proceedings. The advice referred to above in section 17 regarding investigations does not affect that advice. Heads/nominated persons (see para 2) are however advised to seek appropriate HR advice before taking disciplinary action in such circumstances. Area HR Advisers will ensure that there is appropriate liaison with the trade unions at this stage so that any representations about timing can be considered.

Hearing before Governors (or Head Teachers – see para 2 “Managing the Process”)

45. In the event of any decision to take disciplinary action, a report from the Head Teacher, or nominated investigation officer will be submitted to Governors (or the Head Teacher – see para 2) under the disciplinary procedure. This report will include any report from the relevant Social Worker, together with any information obtained from the police. The report will be made available to the employee and his/her representatives with the names of the parent/child concealed. (This is to ensure that none of these documents include these names and create a threat to confidentiality). Clearly anyone accused of an offence must be told, as soon as the interests of the child are safeguarded, details of the allegation against them in specific terms.) The employee and representative will be bound by strict rules of confidentiality in receiving this information. Children and (normally) members of the public will be called as witnesses by management in the case of disciplinary action, and the Head Teacher/nominated person's report will be the main evidence presented. This would not preclude the defence calling members of the public as witnesses if they are prepared to attend, or submitting, with the approval of their parents, statements from other children.

46. The Children and Families Service are committed to reporting back to the Directorate for Children, Learning and Young People within three weeks and while it may take a little longer for the police to complete their investigations, a formal decision should be taken one month after the date of suspension as to whether disciplinary procedures can be commenced. If this is not possible then the decision should be reviewed at not greater than monthly intervals. It should be regarded as an exceptional circumstance for proceedings not to have commenced at or before the end of three months.

47. At the end of any procedures, the employee against whom the allegation has been made should be formally notified of the results of the child protection investigation, and/or of any local internal or disciplinary investigation.

Recording the outcome

48. It is important to record the results of an investigation, whether the individual has been exonerated or been found guilty of a disciplinary offence. Files and records will be kept in accordance with the appropriate disciplinary procedures. For disciplinary purposes, records will be "live" in accordance with the timescales included in the disciplinary procedures. However in view of the particular circumstances of Child Protection, separate confidential files on any such issue will be kept in accordance with paragraphs 11.1 – 11.11 of these guidelines. A copy of this record which is to be kept on the file should be given to the individual employee concerned, and the individual should be given the opportunity to add any comment to this record. Advice on the maintenance of a disciplinary/personal file etc can be obtained from your HR Adviser.

49. In the event of it becoming clear that allegations are malicious or frivolous, the Head Teacher should consider what sanctions may be available with regards to children or others responsible. Schools may wish to take the advice of the Director of Children, Learning and Young People, (or indeed Legal Services) regarding appropriate action.

7 Insurance Claims arising from alleged Child Abuse

1. The council's insurers have expressed concern that they are informed as soon as there is a possibility of a case arising in the area of child protection which might lead to a call on the Council's insurance policies.

2. Head teachers are asked to notify the Finance Insurance Officer of any case of alleged sexual abuse or serious physical abuse by an employee that is, or is likely to be, investigated by the police. Finance will then advise our insurers of the situation.

3. Even if a police investigation is not a prospect, any "less serious" case which schools become aware may lead to a claim or legal action against the school or the City Council should also be promptly reported to the Insurance Officer even before the investigation takes place.

4. In dealing with any possible claim it is important that schools safeguard and keep confidential, all files and records relating to the case. Care should be taken that no discussions take place with the legal representatives of possible claimants without advice from the Finance & Legal Services Directorate, and certainly there should be no admission of liability.

5. In the event of a case arising that could lead to legal action against the Authority or the school, it is important that arrangements are made by the head teacher and governors to manage the record of events and the school files; keeping them secure and confidential and only giving access or releasing them to properly authorised individuals. In the event of schools needing advice on confidentiality and access to child protection records of children, Heads are asked initially to contact the Education Officer (Child Protection).

8 Alleged offences outside work

1. A complaint may be made against an employee concerning alleged abuse of children outside the workplace. The Children, Learning and Young People's Directorate are required by law to consider the effect these allegations may have on other children who are in contact with the alleged perpetrator. Therefore if a complaint is made in respect of conduct outside of work, and that employee works with, or has access to children the Child Protection Co-ordinator or appropriate social worker may contact the Education Officer (Child Protection) to advise of the complaint.

2. The situation will be discussed with the Head Teacher/nominated person (see para 2) or manager to decide if any action is appropriate. Dependent on the circumstances it may be necessary to consider suspension, either to safeguard the well-being of children, or because the alleged conduct raises fundamental issues about the propriety of the individual continuing in their current work with children.

3. Disciplinary action can be taken in respect of conduct outside work which has an effect on the trust and confidence the employer can have in the employee.

9 Anonymous Complaints

1. In the event of an anonymous complaint of child abuse, the Head Teacher/nominated person should check whether the complaint could have any foundation, and if it could, the situation should be discussed with the Child Protection Co-ordinator, with a view to considering whether the welfare of children requires any further action.

2. Where a complaint has been made anonymously and there is no other evidence which leads to further action which would draw the individual's attention to the allegation, the employee against whom the allegation has been made should be informed of the fact. He or

she should also be informed of the view that has been taken over the allegation. The need to protect children is paramount, but must be balanced by a need to treat employees fairly and to discourage anonymous complaints.

10 "List 99"

1. Head Teachers are reminded of the duty to report to the Secretary of State any cases of misconduct by Teachers or other workers with children and young persons which might make them unsuitable for continued employment in a role with children. Any employee convicted of a sexual offence against a child under 16 will be automatically barred from such employment. The Secretary of State has discretion to bar employees for other types of misconduct, whether or not evidenced by a criminal conviction.

2. While HR Advisers will normally be aware of cases where disciplinary action has been taken, they should also be consulted in any case where an employee resigns before disciplinary action after alleged serious misconduct.

11 Recording of Allegations of Child Abuse against staff.

1. A standard form has been prepared (copy attached Appendix 2) for recording allegations of child abuse against employees. This form is similar to the one adopted for recording allegations of abuse by someone outside the school. The aim of this form is to ensure that the appropriate questions are asked at the initial stages of the process.

2. The recording of allegations of child abuse and retention of such information has presented difficulties. The need to prevent damaging allegations being kept on the records of staff who have been the subject of unfounded or malicious allegations needs to be balanced by the conflicting need to recognise that some child abusers have in the past been allowed to continue undiscovered for too long, because records of allegations and suspicions have not been systematically kept. This has prevented patterns being traced.

3. The following advice is intended to provide confidential information which is retained over time, but is completely separate from disciplinary and personal files, which while confidential, have a wider access for administrative and HR reasons.

4. The report form and accompanying documentation of any investigation should form part of a Child Protection case file under the employee's name which should be kept in a secure filing cabinet with any other child protection files held under children's names in the school.

5. Access to these Employee Child Protection case files within the school should be limited to the Head and the Child Protection Link Person, if one is appointed. Access to any such files outside the school should only be as a result of a formal child protection investigation; such files will not form part of the disciplinary records nor should they be used in any disciplinary process except one emerging from a Child Protection Investigation.

6. If asked, a Head should be prepared to inform the City Councils Child Protection Co-ordinator whether there is a file in existence on a particular employee, but this file should not be available for inspection until a formal investigation has begun.

7. There are a number of possible outcomes to an allegation against an employee, all of which require the retention of information in this confidential filing system.

8. If it is established after the investigation that the allegation had no foundation, this finding should be clearly recorded on the file and the file retained in the Child Protection filing system. A copy of the allegation and the record of exoneration should also be placed on a Child Protection case file relating to the child, with a cross reference to the existence of the case file on the part of the personal file for the child concerned which is not available for inspection. In such circumstances no record will be placed on the employee's personal file and his or her disciplinary record remains clear.

9. In the event of a child abuse allegation which results in disciplinary action short of dismissal, whether or not this is a result of the application of the formal child protection procedures, the records of the disciplinary investigation, hearing and the sanction applied should be kept on the appropriate personal/disciplinary file within the school. Summary information should also be placed on the confidential part of the personal file for the child concerned.

10. On the expiry of the warning or other disciplinary sanction, the case papers should be removed from the personal file and filed with the child protection files for a period of seven years. After 7 years the file should be destroyed, and when created the file should be clearly marked with the date on which it should be destroyed. This date should be amended whenever any addition is made to the file. The individual's disciplinary record is clear as soon as the papers are removed from the personal file, even though they are retained and filed on the Child Protection case file.

11. In the event of the employee being dismissed, the file should be similarly retained for 7 years from the date of the last entry on the file. A summary of the allegation and the outcome should be placed in a case file relating to the child concerned, cross - referred with the personal file for the child concerned.

12. The case file relating to individual employees should be kept strictly confidential and not disclosed to anyone except as part of a further child protection investigation. An employee should be informed of anything being placed on the file relating to him or herself, and should be allowed to inspect any information which has been used in the course of an investigation. The employee should have the right to add any comments or explanations they would wish to make to the file, but cannot require anything to be removed or amended.

ALLEGATION OF ABUSE AGAINST AN EMPLOYEE

Appendix 1

Head teacher informed (6.1)

Head Teacher Check details of allegation and records them (6.2)

Incidents could have occurred

Incident could not have occurred

Head Teacher Contacts Child Protection Co-ordinator to discuss allegation (6.3)
And his/her view of the situation

Head Teacher (HT) and Child Protection Co-ordinator (CPCo) agree way forward (6.5)

Member of staff, child and parents counselled

Allegation and evidence requires further investigation under Child Protection Procedures

Allegation and evidence does not require Child Protection Procedures

Results recorded (6.48+11.1)

No further action

Immediately inform employee of allegation (6.6)

HT considers need to suspend pending investigation

Allegation Of sexual Abuse

Allegation of serious physical or emotional abuse

Do not inform Employee until CPCo satisfied Child welfare safeguarded

Inform employee

HT considers suspension (6.8)

Child Protection Procedure instigated. Social Services and Police informed

HT arranges Personal support (6.20)

Inter Agency Strategy Meeting decides (6.7) Child Protection Procedures needed

HT informs Insurance Officer (7.2)

Yes No (6.5)

HT considers suspension (6.8) Of employee, informs Director of CLYP & Chair of Governors

Joint investigation Involving Police

Police decide

Pass case to Crown Prosecution Service

Police decide not to proceed further

CPS decide Prosecution

Insufficient evidence to mount prosecution

Decision in court

Prosecution unsuccessful

Prosecution successful

Remember to advise any employee when allegations are made to seek immediate trade union or other advice

HT conducts local investigation Into allegations (6.11-6.14)

New issue emerges leading to Child Protection HT decides (6.36)

Invoke agreed Disciplinary procedures

Employee exonerated

Record outcome (6.48+11.1)

Inform member of staff, parent and child of outcome

No blame Employee Reinstated

Warning enter on employee's record (6.48+11.1)

Repeated offence with warning on record

Gross misconduct Employee dismissed

Outcome recorded on employee's record (6.48+11.1)

Final warning

Dismissal

Parents informed of outcome

Records retained (11.10)