

# United Learning Guidance on Dealing with Allegations of Abuse against Teachers and Other Staff Policy

## Scope

The guidance set out in this document applies to all United Church Schools Trust (UCST) and United Learning Trust (ULT) employees, workers and volunteers; including teaching, support, fixed-term, part-time, full-time, permanent and temporary staff. The two companies (UCST and ULT) are referred to in this policy by their trading name, 'United Learning'.

Where this policy refers to 'School' or 'Head Teacher', within Central Office this should be interpreted to refer to the department where a member of staff works and their Head of Department.

This guidance must be used in conjunction with the school Child Protection (Safeguarding) Policy and the United Learning Child Protection Statement.

As a values-led organisation our values of ambition, confidence, creativity, respect, enthusiasm and determination are key to our purpose and underpin all that we do.

## 1. Introduction

- 1.1 Staff/volunteers are encouraged to raise all child protection issues which cause concern with the Designated Safeguarding Lead (DSL), even if they appear trivial. It is better to raise concerns which may not need action than to do nothing or delay reporting. The DSL is responsible for liaising closely with other services, such as children's social care, and providing support to staff members to carry out their safeguarding duties.
- 1.2 Staff/volunteers who are concerned about the conduct of a colleague towards a pupil are undoubtedly placed in a very difficult situation. All staff must remember that the welfare of the child is paramount. United Learning's Whistleblowing Policy (available on BiECloud) enables staff/volunteers to raise concerns or allegations in confidence. Any member of staff is able to make a referral to children's social care where there is a risk of immediate serious harm.

## 2. Objectives

- 2.1 To ensure all staff and volunteers are aware of their duty to raise concerns.
- 2.2 To provide all staff and volunteers, on induction, with guidance and support to enable them to respond appropriately if they receive an allegation against another member of staff/volunteer or they themselves have concerns about the behaviour of another member of staff/volunteer.
- 2.3 To ensure that any suspicion or allegation of abuse or neglect made against a member of staff/volunteer is dealt with fairly, quickly, and consistently, in a way that provides effective protection for the child, whilst at the same time supports the person who is the subject of the allegation. Any unnecessary delays should be eradicated.

- 2.4 United Learning is committed to ensuring that the application of the United Learning Dealing with Allegations of Abuse against Teachers and Other Staff Guidance is non-discriminatory. Further details may be found in the United Learning Equality Guidelines (available on Biecloud).

### 3. Application of this Guidance

This guidance applies to cases where it is alleged or suspected that a teacher or member of staff in a school or Central Office, including a volunteer, has:

- 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; *and/or*
- c) Behaved towards a child or children in a way that indicates he/she would pose a risk of harm if they work regularly or closely with children.

### 4. Local Authority Designated Officer (LADO)

The LADO is a named senior local authority officer responsible for oversight of the procedures for dealing with allegations. It is expected that they will:

- a) Be involved in the management and oversight of individual cases;
- b) Provide advice and guidance to schools;
- c) Liaise with the police, children's social services, Local Safeguarding Children Board (LSCB) and other agencies, and resolve any inter-agency issues; *and*
- d) Monitor the progress of cases to ensure that they are dealt with as quickly as possible, consistently and through a thorough and fair process.

### 5. Procedure for Dealing with Allegations

#### 5.1 Where an allegation is made directly to the School

- a) Allegations against adults in the school should be made directly to the designated person (DSL) with responsibility for safeguarding, in their absence the Deputy DSL must be informed.
- b) Allegations against the Head Teacher must be reported directly to the Chair of the Local Governing Body (LGB) and the Managing Director – Independent Schools/Academies.
- c) Staff/volunteers who receive an allegation must write a short verbatim account of the conversation as soon as possible and provide this to the DSL (e.g. time, date, location, witnesses). All allegations must remain strictly confidential.
- d) If the allegation meets any of the criteria set out in paragraph 3.1 above, the DSL (or Chair of the LGB) must report it to the LADO the same day, so that he/she can consult police and social care colleagues as appropriate. Details about how to contact the relevant LADO should be in the school Child Protection (Safeguarding) Policy.
- e) In cases of serious harm the police must be informed from the outset.
- f) The DSL (or Chair of the LGB) must also report the allegation to the Managing Director – Independent Schools/Academies as soon as possible, so that DSL is provided with appropriate support and guidance.

- g) In the response to an allegation all other options should be considered before suspending a member of staff, suspension should not be the default option.

## 5.2 Schools with EYFS or Boarding

- a) Ofsted must be informed as soon as in reasonably practicable, but at least within 14 days, of any allegation of serious harm or abuse by any person living, working, or looking after children at the premises (whether that allegation related to harm or abuse committed on the premises or elsewhere), or any other abuse which is alleged to have taken place on the premises, and of the action taken in respect of these allegations.
- b) If any allegation is made against a member of staff who is resident at the school, arrangements must be made for alternative accommodation away from pupils pending the investigation.
- c) Senior pupils at Boarding Schools must be briefed on the appropriate action to take if they receive an allegation or witness abuse.

## 5.3 Collecting Evidence

The collection of evidence stored electronically should be for specific information and the request for evidence should be made formally and recorded either in writing or in an email. Sufficient detail regarding date range, location, content and recipient should be given to the investigating officer when initial requests are made to collect electronic evidence. If initial findings suggest a broader and more rigorous investigation needs to be carried out, this should be requested by the person leading the investigation.

### a) **Staff and student user areas**

United Learning Technology Policy states that the school has the ability to access the content stored on the services owned and operated by the school or United Learning.

Technical staff in schools or those in Central Office can be directed to look for specific content on a network or look for content in a specific location. For some investigations it may be more appropriate to ask staff who are not based in the school to look for this information. Requests for central office support should be made to the Deputy Director of Technology who will assign the task to either a Technology Specialist or one of the central office technical staff.

### b) **School managed communication platforms**

United Learning Technology Policy states that the school has the ability to access emails sent or received on any communication platforms managed or provided by the school or United Learning for its employees

Technical staff in schools or those in Central Office can be directed to look for communications from or to specific people, containing specific content, or carried out between a specific range of dates.

### c) **Internet Activity**

United Learning Technology Policy states that the school has the ability to monitor and log internet activity carried out on school or United Learning equipment or using services provided by the school or United Learning

Technical staff in schools or those in Central Office can be directed to analyse internet activity by specific users or during a specific period of time or on a specific device.

## 6. Initial Considerations

- 6.1 The procedures for dealing with allegations need to be applied with common sense and judgement. Many cases may well either not meet the criteria set out above, or may do so without warranting consideration of either a police investigation or enquiries by local authority children's social care services. In these cases, local arrangements should be followed to resolve cases without delay.
- 6.2 Some rare allegations will be so serious they require immediate intervention by children's social care services and/or police. The LADO should be informed of all allegations that come to a school's attention and appear to meet the criteria so they can consult police and children's social care services as appropriate.
- 6.3 The following definitions should be used when determining the outcome of allegation investigations:
- a) **Substantiated:** there is sufficient evidence to prove the allegations;
  - b) **False:** there is sufficient evidence to disprove the allegation;
  - c) **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
  - d) **Unsubstantiated:** there is insufficient evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
- 6.4 There may be up to 3 strands in the consideration of an allegation:
- a) Enquiries and assessment by children's social care about whether a child is in need of protection or in need of services (see section 7); *and/or*
  - b) A police investigation of a possible criminal offence (see section 8); *and/or*
  - c) Consideration by the school of internal disciplinary action (see section 9).
- 6.5 The DSL (or Chair of the LGB) should immediately discuss the allegation with the LADO. The purpose of an initial discussion is for the LADO and the DSL (or Chair of the LGB) to consider the nature, content and context of the allegation and agree a course of action. The LADO may ask the school to provide or obtain relevant additional information, such as previous history, whether the child or their family have made similar allegations and the individual's current contact with children. There may be situations when the school will want to involve the police immediately, for example if the person is deemed to be an immediate risk to children or there is evidence of a criminal offence. Where there is no such evidence, the school should discuss the allegations with the LADO in order to help determine whether police involvement is necessary.
- 6.6 The initial sharing of information and evaluation may, lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern; in which case this decision and a justification for it should be recorded by both the school and the LADO, and agreement reached on what information should be put in writing to the individual concerned and by whom. The school should then consider with the LADO what action should follow both in respect of the individual and those who made the allegation.

- 6.7 If the parents/carers of the child concerned are not already aware of the allegation, the LADO should also discuss how and by whom they should be informed. In circumstances where the police or children's social care may need to be involved, the LADO should consult those colleagues about how best to inform the parents/carers and agree what information can be disclosed. However, in some circumstances, the school may need to advise parents/carers of an incident involving their child straight away, for example if the child has been injured while at the school or in a school-related activity and requires medical treatment. Where parents/carers are provided with the details of an allegation pending the outcome of an investigation, they should be warned that it is a criminal offence to publish any material, whether by speech or writing, that may lead to the identification of the teacher accused.
- 6.8 The DSL (or Chair of the LGB) should inform the accused person about the allegation as soon as possible after consulting the LADO. It is extremely important that the DSL (or Chair of the LGB) provides them with as much information as possible at that time. However, where a strategy discussion is needed, or police or children's social care may need to be involved, the Head Teacher (or Chair of the LGB) should not do so until those agencies have been consulted, and have agreed what information can be disclosed to the accused. If the person is a member of a trade union or professional association he/she should be advised to contact that organisation at the outset.

## **7. Case Assessed by Children's Social Care**

- 7.1 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, the LADO should immediately refer to children's social care and ask for a strategy discussion to be convened in accordance with *Working Together to Safeguard Children*. The strategy discussion should include a representative from the school (unless there are good reasons not to do so), and the agencies concerned should share all relevant information they have about the person who is subject of the allegation and about the alleged victim. This initial evaluation may not need to be a face to face meeting.
- 7.2 The LADO should discuss with the DSL (or Chair of the LGB) whether any further action, including disciplinary action is appropriate and, if so, how to proceed.
- 7.3 In any case in which children's social care has undertaken enquiries to determine whether a child or children are in need of protection, any information obtained in the course of those enquiries which is relevant to a disciplinary case should be passed to the school. Children's social care should, wherever possible, obtain consent from the individuals concerned to share statements and evidence obtained with the school for disciplinary purposes. This should be done as their investigation proceeds rather than after it is concluded to enable any relevant information to be passed on without delay.

## **8. Case Subject to Police Investigation**

- 8.1 Where the threshold of "significant harm" (as defined by sections 31(9) and (10) of the Children Act 1989 as amended by the Adoption and Children Act 2002) is deemed not to have been met, but a criminal offence may have been committed, the LADO should immediately inform the

police and convene a strategy discussion to decide whether a police investigation is needed. That discussion should involve the school and any other agencies involved with the child to evaluate the allegation and decide how it should be dealt with.

- 8.2 Police forces should identify officers who will be responsible for liaising with the LADO, taking part in the strategy discussion/initial evaluation, reviewing the progress of cases and sharing information on completion of the investigation or any prosecution.
- 8.3 This initial evaluation may not need to be a face to face meeting. It should share available information about the allegation, the alleged victim, and the person against whom the allegation has been made, consider whether a police investigation is needed and if so, agree the timing and conduct of that. In cases where a police investigation is necessary the joint evaluation should also consider whether there are matters which can be taken forward through an internal disciplinary process in parallel with the criminal process, or whether any internal disciplinary action will need to await completion of the police enquiries and/or prosecution.
- 8.4 If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take account of the fact that teachers and other staff are entitled to use reasonable force to control or restrain pupils in certain circumstances, including dealing with disruptive behaviour, under s93 of the Education and Inspections Act 2006. DfE guidance about this can be found at:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/268771/use\\_of\\_reasonable\\_force\\_-\\_advice\\_for\\_headteachers\\_staff\\_and\\_governing\\_bodies\\_-\\_final\\_july\\_2013\\_001.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/268771/use_of_reasonable_force_-_advice_for_headteachers_staff_and_governing_bodies_-_final_july_2013_001.pdf) Schools should also have in place their own policy on Physical Restraint.
- 8.5 If a criminal investigation is required, the police will aim to complete their enquiries as quickly as possible whilst ensuring a fair and thorough investigation. They should at the outset set a target date for reviewing progress of the investigation and consulting the Crown Prosecution Service (CPS) about whether to proceed with the investigation, charge the individual with an offence, or close the case. Wherever possible that review should take place no later than 4 weeks after the initial action meeting and, if the decision is to continue to investigate the allegation, dates for subsequent reviews, ideally at fortnightly intervals, should be set at that point. It is open to the police to consult the CPS about the evidence that will need to be obtained in order to charge a person with an offence at any stage.
- 8.6 The police or the CPS should inform the school and LADO immediately when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to continue to prosecute the case after the person has been charged. The police and CPS should aim to pass all information they have, which may be relevant to an internal disciplinary case, to the school within 3 working days of the decision. Wherever possible the police should obtain consent from the individuals concerned to share the statements and evidence they obtain with the school for disciplinary purposes. That should be done as their investigation proceeds rather than after it is concluded to enable the police to share relevant information without delay at the conclusion of their investigation or any court case. In these circumstances, the school and the LADO must proceed as described in paragraph 9 below. Consideration will need to take account of the information provided by the police and/or

children's social care services, the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings. In circumstances where a teacher's consent cannot be obtained (i.e. because the teacher will not give consent), United Learning will follow the 'Guidance on the Management of Police Information' (2010).

- 8.7 If the person is convicted of an offence the police should inform the school straight away so that appropriate action can be taken.

## **9. Internal Disciplinary Action**

- 9.1 Where the initial consideration decides that the complaint or allegation is such that it is clear that an investigation by police and/or enquiries by social care are not necessary, or the strategy discussion or initial evaluation decides that is the case, it will be for the school to manage the case and the LADO should discuss the next steps with the DSL (or Chair of the LGB). In these circumstances the options available to the school depend on the nature and circumstances of the allegation and the evidence and information available, and will range from taking no further action to summary dismissal or a decision not to use the person's services in the future. A decision on the nature of any sanction to be imposed must only be made after the United Learning Disciplinary Policy and Procedure has been followed. Suspension should not be the default position: an individual should be suspended only if there is no reasonable alternative.
- 9.2 In some cases further enquiries will be needed to enable a decision about how to proceed. If so, the LADO should discuss with the DSL (or Chair of the LGB) how and by whom the investigation will be undertaken. In straightforward cases, investigations should normally be undertaken by the school's DSL or a senior member of the school's staff. However, in other circumstances, such as lack of appropriate resource within the school or the nature or complexity of the allegation, for example allegations of a sexual assault, will require an independent investigator.
- 9.3 For those cases where it is clear immediately that the allegation is unfounded or malicious then it is expected that they should be resolved within one week.
- 9.4 If the nature of the allegation does not require formal disciplinary action, the Head Teacher should institute appropriate action within 3 working days.
- 9.5 If a disciplinary hearing is required and can be held without further investigation, the hearing should ideally be held within 15 working days.
- 9.6 In any case in which children's social care and/or the police have undertaken enquiries, the Head Teacher (or Chair of the LGB) must take account of any relevant information obtained in the course of those enquiries when considering disciplinary action.
- 9.7 In some circumstances, the school at which the person works will need to consider a case in which normal disciplinary procedures do not apply, and may need to act jointly with another organisation. This will be necessary when, for example, an allegation is made against a supply teacher provided by an employment agency or business, or against a person employed by a contractor, or a volunteer provided by a voluntary organisation. In some cases disciplinary procedures may not be appropriate because the person is a volunteer or self-employed. Although in those cases the school will not have a direct employment relationship with the

individual, the school and the other organisation concerned, if any, will need to be involved and cooperate in an investigation, in reaching a decision about whether to continue to use the person's services, or to provide the person work with children in the future, and whether to report the person to the Disclosure and Barring Service (DBS) or the National College of Teaching and Leadership (NCTL) (see section 11 below).

## 10. Monitoring progress

- 10.1 The LADO should continue to provide advice and support when required/requested and regularly monitor the progress of cases, either via review strategy discussions or by liaising directly with the police and/or children's social care colleagues, and/or the school as appropriate. Reviews should be conducted at fortnightly or monthly intervals depending on the complexity of the case.
- 10.2 The process detailed within this guidance contains several specified deadlines and timescales, many of which will be dependent on external parties, e.g. the police or children's social care, and therefore outside the school's control. If a school has concerns about how a case is progressing within the specified timescales, they should raise this with the LADO.

## 11. Suspension

- 11.1 The possible risk of harm to children posed by an accused person needs to be effectively evaluated and managed in respect of the child(ren) involved in the allegations. In some cases that will require the school to consider suspending the person until the case is resolved. Suspension must not be an automatic response when an allegation is reported; all options to avoid suspension should be considered prior to taking that step. If the school is concerned about the welfare of other children in the community or the teacher's family, those concerns should be reported to the LADO or police. However suspension is highly unlikely to be justified on the basis of such concerns alone.
- 11.2 Suspension should be considered in any case where there is cause to suspect a child or other children at the school is/are at risk of harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal. However, a person must not be suspended automatically or without careful thought. Schools must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children until the allegation is resolved, and may wish to seek advice from the LADO and/or their Central Office HR Business Partner. Schools should also consider whether the result that achieved by suspension could be obtained by alternative arrangements. In many cases the investigation can be completed quickly and without the need for suspension. If the LADO, police and children's social care services have no objection to the member of staff continuing to work during the investigation, the school should be as inventive as possible to avoid suspension. For example:
  - a) Redeployment within the school so that individual does not have direct contact with the child concerned;
  - b) Providing an assistant to be present when the individual has contact with children;

- c) Redeploying to alternative work within the school so the individual does not have unsupervised access to children;
- d) Moving the child/children to classes where they will not come into contact with the member of staff, making it clear that this is not a punishment and parents have been consulted; or
- e) Temporarily redeploying the member of staff to another role in a different location, e.g. to another school within the Group to the local authority or another academy trust.

11.3 These alternatives allow time for an informed decision regarding the suspension and possibly reduce the initial impact of the allegation. This will, however, depend upon the nature of the allegation. The school should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unsubstantiated or maliciously intended.

11.4 In cases where the school is made aware that the Secretary of State has made an interim prohibition order in respect of an individual at the school it will be necessary to immediately suspend that person from teaching pending the findings of the NCTL's investigation.

11.5 If immediate suspension is considered necessary, the rationale and justification for such a course of action should be agreed and recorded by both the school and the LADO. This should also include what alternatives to suspension have been considered and why they were rejected.

11.6 Neither the local authority, the police, or children's social care can require a school to suspend a member of staff or a volunteer, although they should give appropriate weight to their advice. The power to suspend is vested in the Head Teacher and the LGB. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by children's social care and/or an investigation by the police, the LADO should canvass police/children's social care views about whether the accused member of staff needs to be suspended from contact with children to inform the school's decision. Police involvement does not make it mandatory to suspend a member of staff; this decision should be taken on a case-by-case basis having undertaken a risk assessment.

11.7 Where it has been deemed appropriate to suspend the individual, the reasons and justifications should be recorded by the school and written confirmation should be dispatched within one working day to the staff member concerned, giving the reasons for the suspension. The individual should also be informed who their contact is within the school and provided with their contact details.

## **12. Action on Conclusion of a Case**

12.1 If the allegation is substantiated and the person is dismissed or the school ceases to use the person's services, or the person resigns or otherwise ceases to provide his/her services or a person has been permanently removed from regulated activity through dismissal or permanent transfer, the LADO should discuss with the school whether a referral to the DBS (for consideration of including the individual on the DBS barred lists) and/or in the case of a member

of teaching staff whether to refer the matter to the NCTL to consider prohibiting the individual from teaching.

- 12.2 A referral must always be made if the school thinks that the individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child(ren), or they believe that the person has:
- a) Engaged in 'relevant conduct'; or
  - b) Satisfied the 'harm test' (i.e. no action or inaction occurred but the present risk that it could be significant). For more guidance on the 'harm test' see [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/249422/dbs-factsheet-harm-relevant-conduct-and-risk-of-harm.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/249422/dbs-factsheet-harm-relevant-conduct-and-risk-of-harm.pdf); or
  - c) Received a caution or conviction for a 'relevant offence' (a list of these offences is available on the DBS website).

For further guidance on the DBS and on making referrals, please see section B in the Group Safeguarding Children Guidance. The responsibility to make a referral rests with the Head Teacher and should be made as soon as possible after the resignation or removal of the member of staff involved and within one month of ceasing to use the person's services.

- 12.3 Professional misconduct cases should be referred to the relevant regulatory body.
- 12.4 In cases where it is decided on the conclusion of the case that a person who has been suspended can return to work, the school should consider how best to facilitate that. Most people will benefit from some help and support to return to work after a very stressful experience. Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The school should also consider how the person's contact with the child or children who made the allegation can best be managed if they are still attending the school. Consideration of how to manage a return should involve consultation with the individual, the Central Office HR Business Partner and his/her trade union or professional association representative (where appropriate).
- 12.5 In some cases, the school will still have a duty to refer an individual to the DBS and/or TA even when the individual returns to work. Therefore it is essential to clarify the duty to refer with the LADO and/or the school's Central Office HR Business Partner following all child protection cases.
- 12.6 For those cases where it is clear immediately that the allegation is unsubstantiated or malicious, they should be resolved within one week.

### **13. Action in Respect of Unfounded or Malicious Allegations**

- 13.1 If an allegation is determined to be unfounded or malicious, the LADO should refer the matter to children's social care to determine whether the child concerned is in need of services, or may have been abused by someone else. In the rare event that an allegation is shown to have been deliberately invented or malicious, the Head Teacher (or Chair of the LGB) should consider whether any disciplinary action, which could include permanent or temporary exclusion, is appropriate against the student who made it, or the police should be asked to consider whether any action might be appropriate against the person responsible even if he/she was not a student.

- 13.2 Allegations that are found to be malicious should be removed from personnel records; and any that are unsubstantiated, are unfounded or malicious should not be referred to in employer references.

## 14. Supporting Those Involved

- 14.1 Parents/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 (subject to paragraph 6.3). They should also be kept informed about the progress of the case, helped to understand the processes, and informed of the outcome (where there is not a criminal prosecution) including the outcome of any disciplinary process. However, the deliberations of a disciplinary hearing and the information taken into account in reaching a decision cannot normally be disclosed, but the parents/carers of the child should be told the outcome in confidence.<sup>1</sup>
- 14.2 In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's social care, or the police as appropriate, should consider what support the child or children involved may need.
- 14.3 The school should also keep the person who is the subject of the allegations informed of the case progress and consider what other support is appropriate for the individual, e.g. access to occupational health or employee assistance (see 14.5). If the person is suspended, the school should also keep the individual informed about developments. As noted in paragraph 6.4, if the person is a member of a trade union or professional association he/she should be advised to contact that body at the outset.
- 14.4 Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations and disciplinary process. Support for the individual is key to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by the local authority social care services or the police. The school should appoint a named representative to keep the person who is the subject of the allegation informed of the progress of the case. Particular care needs to be taken when employees are suspended to ensure that they are kept informed of both the progress of their case and current work related issues. Social contact with colleagues and friends must not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.
- 14.5 Where schools have access to the Employee Assistance Programme, details should be given to all staff/volunteers involved ([www.well-online.co.uk](http://www.well-online.co.uk), 0800 0851376).

## 15. Resignations and Compromise Agreements

- 15.1 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 this guidance. It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety

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<sup>1</sup> 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.

or welfare of children, including any in which the person concerned refuses to cooperate with the process. Wherever possible, the person should be given full opportunity to answer the allegation and make representations about it, but the process of recording the allegation and any supporting evidence, and reaching a judgement 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.

- 15.2 Compromise Agreements (by which a person agrees to resign, 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 appropriate.

## **16. Record keeping**

- 16.1 It is important that a clear and comprehensive summary of any allegations made, details of how the allegation was followed up and resolved, notes of any discussions/meetings held, action taken and decisions reached, is kept on a person's confidential personnel file, and a copy provided to the person concerned. The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where a future DBS Disclosure reveals information from the police about an allegation that did not result in a criminal conviction. It will also help to prevent unnecessary re-investigation if an allegation resurfaces after a period of time. 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.
- 16.2 Written information must be stored in a locked facility and electronic information must be password protected and only made available to relevant individuals.
- 16.3 Details of allegations that are found to have been malicious should be removed from personnel files.
- 16.4 Child protection records are normally exempt from the disclosure provisions of the Data Protection Act 1998, meaning that pupils and parents do not have an automatic right to see them. If any member of staff receives a request from a pupil or parent to see child protection records, they should refer the request to the Head Teacher.

## **17. References**

- 17.1 Cases in which an allegation, or history of allegations, was proven to be false, unsubstantiated, unfounded or malicious should not be included in employer references. A history of repeated concerns or allegations which have all been found to be unsubstantiated, malicious, etc. should also not be included in any reference.

## 18. Timescales

- 18.1 It is in everyone's interest to resolve cases as quickly as possible whilst ensuring a fair and thorough investigation. Every effort should be made to manage cases to avoid any unnecessary delay. The time taken to investigate and resolve individual cases depends on a variety of factors, including the nature, seriousness and complexity of the allegation, but the following targets should be achieved in all but truly exceptional cases: 80 per cent of cases should be resolved within one month, 90 per cent within three months, and all but the most exceptional cases should be completed within 12 months. Difficulties in achieving these target dates should be relayed to the LADO as soon as possible.

## 19. Confidentiality

- 19.1 Every effort should be made to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated/considered.
- 19.2 Parents/carers should be made aware if the prohibition on reporting or publishing allegations about teachers in section 141F of the Education Act 2002. If parents/carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice.
- 19.3 The Education Act 2011 introduced reporting restriction preventing the publication of any material that may lead to the identification of a teacher who has been accused by, or on behalf of, a pupil from the same school (where that identification would identify the teacher as the subject of the allegation). The reporting restrictions apply until the point that the accused person is charged with an offence, or until the Secretary of State publishes information about an investigation or decision in a disciplinary case arising from the allegation. The reporting restrictions also cease to apply if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a judge lifts restrictions in response to a request to do so. "Publication" includes "any speech, writing, relevant programme or other communication in whatever form, which is addresses to the public at large or any section of the public". This means that a parent who, for example, published details of the allegation on a social networking site would be in breach of the reporting restrictions (if what was published could lead to the identification of the teacher by members of the public).
- 19.4 In accordance with the Association of Chief Police Officers' (ACPO) guidance, the police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. In exceptional cases where the police would like to depart from that rule, e.g. an appeal to trace a suspect, they must apply to a magistrates' court to request that reporting restrictions be lifted.
- 19.5 The Head Teacher (or Chair of the LGB) should take advice from the LADO, police and children's social care services to agree the following:
- a) Who needs to know and what information can be shared;
  - b) How to manage speculations, leaks and gossip;
  - c) What, if any information can be reasonably given to the wider community to reduce speculation; and

d) How to manage press interest if and when it should arise.

19.6 When dealing with sensitive child protection issues and the media, Head Teachers (or Chair of the LGB) can also contact the External Relations Team at 8hwe for guidance and support (contact details available on BiECloud).

## 20. Learning lessons

20.1 At the conclusion of a case in which an allegation is substantiated the LADO should review the circumstances of the case with the Head Teacher (or Chair of the LGB) to determine whether there are any improvements to be made to the school's procedures or practices to help prevent similar events in the future. This should include issues arising from the decision to suspend the member of staff, the duration of the suspension and whether or not suspension was justified. Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated. The LADO and Head Teacher (or Chair of the LGB) should consider how future investigations of a similar nature could be carried out without suspending the individual.

## 21. Additional Information

21.1 DCSF publication '*Working Together to Safeguard Children: a guide inter-agency working to safeguard and promote the welfare of children*' (March 2010).

21.2 DFE Keeping Children Safe in Education (April 2014)

21.3 Guidance on how to make a referral to the DBS is at:

<https://www.gov.uk/government/publications/dbs-referrals-form-and-guidance>

21.4 Schools should be mindful of the relationship between this guidance and other Group/school policies, in particular, the United Learning Disciplinary Procedure, United Learning Safeguarding Children Guidelines, United Learning Child Protection Statement, UCST/ULT Child Protection Policies and United Learning Staff-Student Relationship Letter.

## 22. Review

22.1 This policy will be reviewed annually to ensure consistency, fairness and effectiveness, and in light of any changes in employment or educational legislation.

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