



Procedures for Dealing With
Allegations of Abuse
Against Staff

Balfour Primary School

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Procedures for Dealing With Allegations of Abuse

Procedure for formal investigation where allegations have been made against a member of staff concerning **child protection** issues (including possible referral to the Disclosure & Barring Service for inclusion on the Children's Barred list, formerly known as List 99 and POCAL lists)

Background & Introduction

- 1.1. The Disclosure & Barring Service (created by the Home Office department following the merger of the Criminal Records Bureau and Independent Safeguarding Authority on 1 December 2012) is responsible for making decisions on who should be barred from working with children (and vulnerable adults). The duty of employers to refer relevant staff for consideration took effect from 20 January 2009. The Children's Barred List (mirrored by the Vulnerable Adults Barred List) came into operation on 12 October 2009 and it includes those on the Protection of Children Act List (POCAL), previously held by the Department of Health and those people held on List 99; a separate list of people considered to be unsuitable to work with children is held by the DfS.
- 1.2. The council is obliged to inform the DBS when an employee has harmed or placed a child at risk so that a decision about their inclusion on the list may be made.
- 1.3. Pre-employment checking via the DBS will identify any potential staff members who are listed on the DBS Children's Barred List (formerly POCA and List 99).
- 1.4. This guidance sets out what is required of Human Resources, the Safeguarding team and managers of services/Headteachers in relation to the reporting of child protection allegations against a staff member and employment related matters.

Scope

- 2.1. This procedure is for use within Brighton & Hove City Council (including schools) and for staff seconded within Section 75 Services and is integral to the Child Protection Procedures. This will include temporary staff, casual workers and volunteers.

Process

- 3.1. These guidelines relate to allegations that have been made against a member of staff where child protection concerns are raised.
- 3.2. When an incident occurs/allegation is made the manager on duty/Headteacher should seek advice from the Local Authority Designated Officer (LADO), Darrel Clews, or in their absence, the Named Senior Officer (NSO) for Education, Maggie Baker, Partnership Adviser – Access to Education, who will consider the information and possibly consult colleagues in the Police and/or Social Care to decide if it is a child protection matter. If it is deemed so, Human Resources should be informed and consideration will be given as to whether it is appropriate for the member of staff to be suspended pending initial enquiries taking place. Where the matter is not deemed a formal child protection incident, the line manager should consult with Human Resources about whether there is still a need to undertake an investigation into potential staff conduct/competency issues.



- 3.3. When the incident is deemed to be a potential child protection matter, a strategy meeting with relevant parties should be organised, as a matter of urgency, in line with child protection procedures. This meeting should include:
- Representative from Police Child Protection Team (CPT)
 - Representative from the Advice, Contact and Assessment Service (ACAS-Children’s Services)
 - Representative from Human Resources
 - Manager of Unit / Headteacher of school/nominated investigating manager
 - Others may include:
 - Child’s allocated social worker (if named child involved)
 - Professionals directly involved with the child (if a named child)
- 3.4. Other relevant parties may need to be informed on a purely need to know / limited information basis:
- Press Office
 - Legal Services
 - Director of Human Resources
 - Director of Children, Families and Schools
- 3.5. The Strategy Meeting will agree what action needs to be taken for the welfare of the child(ren) and what action needs to be taken as a result of the allegation / incident with regard to undertaking a disciplinary investigation. Consideration needs to be given a referral to the DBS (see guidelines referred to under paragraph 4 below). In some cases referral to the Health and Care Professionals Council (HCPC) or Teaching Agency may be required, noting the guidelines laid down by these bodies and the seriousness of the allegations.
- 3.6. From 1 April 2012 the Teaching Agency, acting on behalf of the Secretary of State, will have regard to the personal and professional conduct aspects of the new Teachers’ Standards document instead of the General Teaching Council for England’s (GTCE) Code of Conduct and Practice for Registered Teachers.**
- 3.7. Following the agreed outcome(s) of this meeting the disciplinary investigation will commence as soon as is practically possible. **It is the Investigating Manager’s responsibility, with advice from his or her HR contact, to ensure that the timescales for this process are appropriate and timely.** The need to work closely with the CPT should be borne in mind, to allow them to advise on the appropriateness of the disciplinary investigation or the outcome(s) of their investigation, whichever is sooner.
- 3.8. Before the Investigating Manager arranges any disciplinary investigation meeting, the CPT should be informed.



- 3.9. It is important that the member of staff about whom the allegations are made is fully informed of all developments, subject to the agreement of the strategy meeting that this is not prejudicial to the child protection investigation. It is sensible to arrange this information sharing through their named Trade Union representative, as appropriate, especially regarding delays.
- 3.10. Once the CPT has concluded its initial enquiries, it should notify the LADO of the action to be taken as a result of this. It is the responsibility of the LADO to inform other relevant parties i.e. Investigating Manager, Human Resources etc. Recommended action could include:
- 3.11. The member of staff is arrested and charged.
- 3.12. Further enquiries are required to establish from the CPT's perspective if there is a case to answer.
- 3.13. The CPT's investigation is concluded and they will not be taking any action.
- 3.14. All contact with the individual should be in consultation with the CPT/Social Care.
- 3.15. If, however, there are other allegations that are not of interest to the child protection investigation, these may be investigated separately. It is advisable that this is raised and discussed at the strategy meeting and that agreement is obtained.
- 3.16. The Investigating Manager should consider obtaining background information when preparing to conduct a disciplinary investigation into this type of allegation i.e.: -
 - Practice issues
 - Information from the individual's manager
 - Case files (if relevant)
 - Supervision file
 - Relevant internal procedures/guidelines/codes of practice
 - If relevant from CPT any informal information gained from other residents/service users as part of their process
- 3.17. If it is found that there is a case to answer, the member of staff would be informed of this and a hearing set up as soon as is practicable, in accordance with the council/school's disciplinary procedure. All relevant documentation should be placed upon the employee's personal file.
- 3.18. If it is found there is no case to answer, a return to work should be planned and managed by their immediate line manager with assistance from Human Resources. This must be handled as sensitively as possible with appropriate support and management time. There may be recommendations from the investigation which, whilst not leading to formal action, may need to be highlighted for improvements in, or setting of, practice standards. These should be detailed to the line manager by the Investigating Manager, for the line manager to initiate. All relevant documentation (see appendix A) should be placed upon the employee's personal file (and retained until retirement age or for 10 years whichever is sooner).



- 3.19. Please note these notes are for guidance only and exact application will vary dependant upon the individual circumstances of each case.

Reporting to other relevant bodies

- 4.1. Including: Disclosure & Barring Service (DBS) – see appendix B and DBS referral guidance and referral form on the Wave or at: www.homeoffice.gov.uk/agencies-public-bodies/dbs/
- 4.2. The investigating manager, in conjunction with HR (Head of Coaching & Advice), will need to consider the appropriateness of reporting to the above body in light of the details and outcomes of any investigation into allegations. Where doubt exists, advice should be sought from the relevant body as to whether they require notification. This advice should be recorded and kept with paperwork relevant to the investigation.
- 4.3. In the case of child protection incidents in schools the LADO is responsible for providing figures to the Local Safeguarding Children Board and the DfE.

Individual's welfare

- 5.1. Noting the sensitivity of this type of issue, it is important that the welfare needs of the member of staff are considered:
 - Staff welfare service contact details should be highlighted to the member of staff
 - The union should be contacted as a further source of support
 - A named contact manager (who is not part of the investigation) should be identified for the member of staff

Team Welfare

- 6.1. Any team where a colleague has been suspended in a school/service area dealing with children will naturally react to the news and often experience shock, disbelief and find it difficult not to have contact with the member of staff. It is often advisable to offer and agree support for the team as a whole.

Communication with the wider department / Council

- 7.1. This should be on a strictly limited need to know basis, noting sensitivity and data protection issues, through limited email circulation (schools also have separate guidance relating to governing bodies found under the disciplinary policy guidance).



Appendix A - Summary of Allegation/Concern to be placed on Personnel File/kept by the Agency

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Explanatory statement

There is a requirement to keep a clear and comprehensive summary of allegations, how the allegation was followed up and resolved, and a note of any action taken and decisions reached. This should be kept on an employee's confidential personnel file, (or in the case of a volunteer, confidentially stored by the agency), and a copy provided to the person concerned.

The purpose of this record is to enable accurate information to be given in response to any future request for a reference. It will provide clarification in cases where a future DBS (formerly CRB) Disclosure reveals information from the police about an allegation that did not result in prosecution or a conviction. It will also prevent unnecessary re-investigation if, as sometimes happens, allegations resurface after a period of time.

This record should be retained at least until you have reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

Summary of allegation:

How allegation was followed up:

Outcome of investigation*

Action taken and decisions reached



Employee Comments

Signed by: Responsible Manager

Date

LADO

Date

Employee.....

Date

***Outcomes:**

Substantiated - A substantiated allegation is one which is supported or established by evidence or proof

Unsubstantiated - An unsubstantiated allegation is not the same as a false allegation. It simply means that there is insufficient identifiable evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

Unfounded - This indicates that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances. For an allegation to be classified as unfounded, it will be necessary to have evidence to disprove the allegation.

Deliberately invented or malicious - This implies a deliberate act to deceive. A malicious allegation may be made by a pupil following an altercation with a teacher or a parent who is in dispute with a school. For an allegation to be classified as malicious, it will be necessary to have evidence, which proves this intention.

(Outcomes from the guidance. Definitions from “Definitions and Thresholds for Managing Allegations Against Education Staff” issued January 2004 by the IRSC network following consultation and agreement by the DfES with NEOST, teacher unions, ADSS and ACPO)

LADO refers to the local authority officer designated to give advice and monitor allegations against adults working with children.



Appendix B - DBS (formerly ISA) Referral Guidance

N.B. This appendix is a summary document and should be read in conjunction with the full DBS referral guidance (see para. 4 above)

Referral to the DBS should be considered in the following circumstances:

1. Current employees:

- The employee has been dismissed on the grounds of misconduct that harmed, or could have potentially harmed a child/ren.
- The worker has left employment (resigned, retired or been made redundant) in circumstances where the employer would have terminated or considered terminating employment on such grounds.
- The employer, on such grounds, has transferred the worker to a position that is not a position working with children on a temporary or permanent basis.

Suspensions:

- Workers who have been suspended, but not dismissed or permanently transferred to non- children's positions, on the grounds of harm that they have caused to child/ren should be referred to the DBS, subject to below:-
- Bearing in mind the damage that an unfounded referral to the DBS can cause, a referral should only be made if the employer is reasonably satisfied that the allegations have some substance. Immediate referral may therefore not be appropriate and should be kept under review with the investigation.

2. Former employees

- Employers have a duty to refer workers who leave their school/child care position and about whom information relating to misconduct is subsequently found.
- Should a worker leave employment before a complete investigation can be conducted, an employer can make a referral to the DBS, but only after enquiries have been completed and it is concluded that it would have been appropriate to dismiss.
- In situations where a worker leaves employment before enquiries can be satisfactorily completed (i.e. the teacher/child care worker is unavailable for interview and only half of the story can be taken into consideration), the employer can only realistically conclude that he / she would have considered dismissing the worker.



Note: Employment agencies:

- Employment agencies are under a duty to provide a referral when they have either decided not to do business with the worker on the grounds of misconduct; or
- That on such grounds the agency will not put the candidate forward for further work supplied by the agency.
- Employment agencies / businesses must fulfil the same criteria as childcare providers who employ permanent staff in order to make a referral.

Referrals to the DBS should be made using the paperwork and guidance provided by the DBS found at the following intranet address:

www.homeoffice.gov.uk/agencies-public-bodies/dbs/