

# Safeguarding children in education: handling allegations of abuse against teachers and other staff

Guidance for local authorities, headteachers, school staff,  
governing bodies and proprietors of independent schools



Llywodraeth Cymru  
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## Guidance

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# Safeguarding children in education: handling allegations of abuse against teachers and other staff

<b>Audience</b>	All schools, including independent schools and pupil referral units; local authorities; governing bodies; further education institutions; Local Safeguarding Children Boards.
<b>Overview</b>	This is statutory guidance from the Welsh Government's Department for Education and Skills on handling allegations of abuse against teachers and other staff. This guidance is for all schools (including all types of maintained schools, pupil referral units and independent schools), local authorities and the further education sector. It relates to all adults working with children and young people whether in a paid or voluntary position, including those who work with children on a temporary, supply or locum basis.
<b>Action required</b>	All local authorities, governing bodies of maintained schools, including voluntary aided and foundation schools, management committees of pupil referral units, proprietors of independent schools and principals of further education institutions should have regard to this guidance when carrying out their duties relating to the handling of allegations against teachers and other staff.
<b>Further information</b>	Enquiries about this document should be directed to: Diverse Learning and Safeguarding Branch Support for Learners Division Department for Education and Skills Welsh Government Cathays Park Cardiff CF10 3NQ Tel: 029 2082 5010 e-mail: <a href="mailto:SafeguardingChildreninEducation@wales.gsi.gov.uk">SafeguardingChildreninEducation@wales.gsi.gov.uk</a>
<b>Additional copies</b>	This document can be accessed from the Welsh Government's website at <a href="http://www.wales.gov.uk/educationandskills">www.wales.gov.uk/educationandskills</a>

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## 1. Status and content of this guidance

1.1 This is statutory guidance for maintained schools and further education institutions issued by the Welsh Ministers under section 175 of the Education Act 2002. This is also non-statutory guidance for independent schools to enable them to comply with the standards prescribed by the Independent School Standards (Wales) Regulations 2003 made under section 157 of the Education Act 2002. It relates to the following legislation:

- The Children Act 1989
- Section 175 of the Education Act 2002 (local authorities, governing bodies of maintained schools and institutions in the further education sector),
- Section 157 of the Education Act 2002 and the Independent Schools Standards Wales Regulations 2003
- The Children Act 2004
- Section 28 of the Children Act 2004 (other agencies)
- Sections 141F, 141G and 141H of the Education Act 2002.

1.2 Local authorities, governing bodies of maintained schools and FE institutions must have regard to this guidance for the purpose of meeting their duties under section 175 of the Education Act 2002 to exercise their functions in a way that takes into account the need to safeguard and promote the welfare of children. The requirement to ‘have regard’ means that the guidance must be taken into account and any decision to depart from it, must be justified.

1.3 Proprietors of independent schools should have regard to this guidance for the purpose of meeting standards set out in regulations made under section 157 of the Education Act 2002 to exercise their functions in a way that takes into account the need to safeguard and promote the welfare of children.

1.4 This guidance should be read in conjunction with Safeguarding Children: Working Together Under the Children Act 2004 (“Working Together”) and the All Wales Child Protection Procedures which provide guidance and inform child protection practice to Local Safeguarding Children Boards<sup>1</sup> in Wales and their statutory partners. School Governors and local authorities should also read this guidance in conjunction with Welsh Government Guidance on Disciplinary and Dismissal proceedings against school staff<sup>2</sup>.

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<sup>1</sup> The Social Services and Wellbeing Bill includes provision to replace LSCBs with new Safeguarding Children Boards.

<sup>2</sup> Welsh Government guidance on Disciplinary and Dismissal Procedures for School Staff is currently subject to amendment to reflect this guidance and the outcome of a consultation on the Staffing of Maintained Schools (Wales) Regulations 2006 in relation to independent investigations of allegations of abuse.

## 2. Introduction

2.1 Children have a right to be safeguarded and protected from harm. Any allegation of abuse made by or on behalf of a child should be taken seriously and the child should be listened to and dealt with sensitively.

2.2 Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations process. Support for the individual is key to fulfilling this duty.

2.3 It is essential that any allegation of abuse made against a teacher or other member of staff or volunteer in an education setting is dealt with fairly, quickly and consistently, in a way that provides effective protection for the child, and at the same time supports the person who is the subject of the allegation. The quick resolution of allegations of abuse should be a clear priority to the benefit of all concerned. All unnecessary delays should be eradicated.

2.4 All schools and FE colleges should have procedures for dealing with allegations and all staff and volunteers should understand what to do if they receive an allegation or have concerns about another member of staff. The procedures should make it clear that **all allegations should be reported immediately**, normally to the head teacher, principal or proprietor if it is an independent school. The procedures should also identify the person, usually the chair of governors, to whom referrals should be made in their absence; or in cases where the head teacher or principal themselves is the subject of the allegation or concern. Procedures should also include contact details for the Local Authority Designated Officer for Child Protection (LADO) responsible for providing advice and monitoring cases<sup>3</sup>.

2.5 The framework for managing cases of allegations of abuse against people who work with children is set out in Welsh Government Circular 12/2007: Safeguarding Children: Working Together Under the Children Act 2004 (“Working Together”).  
<http://wales.gov.uk/topics/childrenyoungpeople/publications/safeguardingunder2004act/?lang=en>.

2.6 This new guidance deals specifically with allegations of abuse against teachers and other staff working in schools and further education institutions. It is about dealing with allegations that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children in their present position, or in any capacity. It relates to all cases in which it is alleged that a teacher or member of staff (including volunteers) in a school or FE college that provides education for children under 18 years of age has:

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<sup>3</sup> Chapter 12.23 of Safeguarding Children Working Together under the Children Act 2004 sets out the role of the Local Authority Designated Officer for Child Protection (LADO)

- Behaved in a way that has harmed a child, or may have harmed a child;
- Possible committed a criminal offence against or related to a child; or
- Behaved towards a child or children in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children.

2.7 This guidance relates to members of staff who are currently working in any school, regardless of whether the school is where the alleged abuse took place. Allegations against a teacher who is no longer teaching should be referred to the police.

### 3. Initial considerations

3.1 The procedures for dealing with allegations need to be applied with common sense and judgement. Many cases may not meet the criteria set out above, in which case local arrangements should be followed to resolve cases without delay. Some rare allegations will be so serious they require immediate intervention by children's social services and/or the police.

3.2 The Local Authority Designated Officer for Child Protection<sup>4</sup> (LADO) should be informed of **all** allegations that come to a school's attention and appear to meet the criteria set out above so they can consult children's social services and the police, as appropriate.

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

**Substantiated:** there is sufficient evidence to prove the allegation;

**False:** there is sufficient evidence to disprove the allegation;

**Malicious:** there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false;

**Unfounded:** there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances;

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<sup>4</sup> The role of the Local Authority Designated Officer for Child Protection in overseeing and monitoring allegations of abuse is set out in Safeguarding Children: Working Together Under the Children Act 2004.

**Unsubstantiated:** this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term therefore does not imply guilt or innocence.

## 4. Receipt of an allegation

4.1 Allegations should be brought immediately to the attention of the head teacher or principal, (or chair of governors if the allegation is against the head teacher), the chair of the management committee or proprietor of an independent school. **(For ease of reference we have referred to this person as the ‘case manager’ throughout this document).** The head teacher/principal should inform the chair of governors of all allegations of abuse that come to his/her attention.

4.2 In the first instance the case manager should immediately discuss the allegation with the Local Authority Designated Officer for Child Protection (LADO). The purpose of an initial discussion is for the LADO and the case manager to consider the nature, content and context of the allegation and agree a course of action. The initial enquiries should establish:

- That an allegation has been made;
- What is alleged to have occurred;
- When and where the episode is/are alleged to have occurred;
- Who was involved; and
- Any other persons present.

4.3 The LADO may ask the case manager to provide or obtain relevant additional information such as previous history, whether the child or their family have made similar allegations and the member of staff’s current contact with children.

4.4 There may be situations when the case manager will want to involve the police immediately, for example if the person is deemed to be an immediate risk to children. Where there is no such evidence, the case manager should discuss the allegation with the LADO in order to help determine whether police involvement is necessary.

4.5 The initial sharing of information and evaluation between the case manager and the LADO may lead to a decision that the allegation is demonstrably false or unfounded and 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 case manager and the LADO, the chair of governors informed and agreement reached on what information should be put in writing to the individual and by whom. The case manager should then consider with the LADO what action should follow in respect of the individual and those who made the allegation.



4.6 The decision that no further action is to be taken should never be based on the employer's opinion about the character and/or personal circumstances of the individual employee and about the person making the allegation.

## **5. Informing parents/carers**

5.1 Parents or carers of a child or children involved should be told about the allegation as soon as possible if they do not already know about it. Where a strategy discussion is required, or police or children's social services need to be involved, the head teacher should consult those agencies and agree what information can be disclosed to the parents or carers. Parents or carers should also be kept informed about the progress of the case and told the outcome where there is a criminal prosecution or that a disciplinary process is being followed. The deliberations of a disciplinary hearing and the information taken into account in reaching a decision cannot normally be disclosed but the outcome should be told to the parents in confidence.

5.2 Parents and carers should also be made aware of the prohibition on reporting or publishing allegations about teachers in section 141F of the Education Act 2002 (see below). If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice.

## **6. Informing the accused person**

6.1 The case manager should inform the accused person about the allegation as soon as possible after consulting the LADO. It is important that the case manager provides them with as much information as possible at that time. However, where a strategy discussion is needed, or police or children's social services need to be involved, the case manager should not do that until those agencies have been consulted and have agreed what information can be disclosed to the person. If the individual employee is a member of a trade union they should be advised to contact that organisation. The accused person should be informed that any child protection enquiry will be carried out in accordance with the all Wales child protection procedures.

## **7. Referral to the police and social services**

7.1 If the allegation is not demonstrably false or unfounded and there is a cause to suspect a child is suffering or is likely to suffer significant harm, and/or a criminal offence against a child has been committed a strategy discussion should be convened in accordance with the All Wales Child Protection Procedures.

7.2 If the allegation is about physical contact the strategy discussion or initial evaluation with the police should take into account that teachers and other school and FE college staff are entitled to use reasonable force to control or restrain pupils in certain circumstances, including dealing with disruptive behaviour<sup>5</sup>.

7.3 Whilst the statutory authorities are considering the allegation governing bodies of maintained schools should take no action other than to review and confirm the membership of staff disciplinary and dismissal committees. However, a decision to suspend the individual where necessary may be made at any stage of the process. Further details on suspension are included below.

## **8. Strategy discussion and strategy meeting**

8.1 The strategy discussion will share all information received/gathered to date and decide on the next course of action and whether a strategy meeting should be held. The strategy meeting decides whether enquiries by social services and/or the police will proceed further and if so, plans the process and management of the enquiries. The All Wales Child Protection Procedures (AWCPP) provide guidance and inform child protection practice to Local Safeguarding Children Boards<sup>6</sup> across Wales. Full details on the child protection process and the procedures for undertaking strategy discussions and strategy meetings are set out AWCPP which can be accessed at: <http://www.awcpp.org.uk/areasofwork/safeguardingchildren/awcpprg/index.html>

8.2 The statutory authorities may decide to refer the matter to the Crown Prosecution Services (CPS) because of potential criminal behaviour. Alternatively the strategy discussion/meeting may decide that an investigation by the police or children's social services is unnecessary and the employer should deal with the allegation in accordance with its own disciplinary procedures.

8.3 Where it is clear that an investigation by the police or children's social services is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the LADO should discuss the next steps with the case manager and the chair of governors.

8.4 In those circumstances, the options open to the school or FE College depends on the nature and circumstances of the allegation and the evidence and information available. This will range from taking no further action to summary dismissal via a disciplinary hearing or a decision not to use the person's services in the future if the allegation is made against a volunteer or agency services.

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<sup>5</sup> Welsh Government guidance on the use of force to control or restrain pupils can be accessed at: <http://wales.gov.uk/topics/educationandskills/schoolshome/pupilsupport/searching/?lang=en>

<sup>6</sup> The Social Services and Wellbeing Bill includes provision to replace LSCBs with new Safeguarding Children Boards that will be established on the public service delivery footprint of six.

8.5 For many allegations the outcome is likely to be that criminal prosecution does not take place but there are nevertheless grounds for the school or college to conduct a staff disciplinary and dismissal process. The avoidance of delay and duplication may be facilitated by a recommendation at the strategy meeting that the interviewing police officer and/or social worker seek consent from individuals being interviewed to share the information provided with the employer or independent investigator at the conclusion of the enquiries and/or court hearing.

8.6 Once the statutory authorities have completed their consideration of the allegation the matter is referred back to the governing body to complete the staff disciplinary process. The LADO should consult with the Chair of Governors and the Headteacher (unless the headteacher is the subject of the allegation) and discuss next steps.

8.7 The head teacher, chair of governors and the LADO should consider whether on the basis of all the evidence and information available the conclusion is:

- that the allegation is demonstrably false or unfounded and no further action is required, in which case the reason and justification for it should be recorded;
- there is evidence of misconduct the nature of which should be dealt with through the school's lesser misconduct procedures;
- there is evidence of misconduct the nature of which should be dealt with through the school's gross misconduct procedures;
- Where the allegation constitutes gross misconduct and an independent investigation is required (see paragraph 1.33 below).

## **9. Responsibilities of maintained school governing bodies – disciplinary and dismissal procedure**

9.1 Governing bodies are responsible for the conduct and discipline of school staff. A governing body is required to adopt rules and regulations to regulate the conduct and discipline of all staff it employs or has day-to day responsibility for. This does not include certain ancillary staff, supply teachers or volunteers. The Welsh Government has issued statutory guidance in Circular 002/2013 Disciplinary and Dismissal Procedures for School Staff. The guidance sets out the responsibilities of governing bodies in dealing with disciplinary issues including procedures for dealing with lesser or gross misconduct. The guidance includes a model staff discipline policy. Schools and local authorities should refer to this guidance when undertaking disciplinary and dismissal procedures relating to allegations of abuse against teachers and other staff.

## 10. Independent investigations

10.1 In some cases further enquiries will be needed to enable a decision about how to proceed. Many local authorities already provide for an independent investigation of allegations, often as part of the personnel services that schools can buy in from the local authority. It is important that local authorities ensure that schools and FE colleges have access to an affordable facility for independent investigation.

10.2 The forthcoming Staffing of Maintained Schools (Wales) (Amendment) Regulations 2014 require governing bodies to appoint an independent investigator to investigate allegations that a teacher employed under a contract of employment at a school has abused a pupil registered at the same school.

10.3 However, the Chair of governors must not appoint an independent investigator until:

- the statutory authorities have concluded their consideration of the case, any criminal proceedings have concluded and the allegation has been referred back to the school;
- the chair has consulted with the Local Authority Designated Officer for Child Protection and the headteacher (unless the allegation is about the headteacher).

10.4 The consultation should take into account all the evidence and information available and agree on next steps including whether an independent investigation is required. A written record of this discussion and the outcome must be maintained.

10.5 There is no requirement to undertake an independent investigation where an allegation is found to be demonstrably false or unfounded.

10.6 Similarly, the appointment of an independent investigator is not required where the accused person has admitted the allegation or has been convicted of a criminal offence relating to the allegation. In such circumstances there should be sufficient information and evidence from the statutory authorities which should be shared with the school to inform the disciplinary process. The disciplinary and dismissal process must still be completed to formally determine whether or not the member of staff's contract should be terminated in accordance with the law in the Staffing of Maintained Schools (Wales) Regulations 2006.

10.7 A governing body can choose who to appoint as an independent investigator, subject to the following restrictions imposed by the regulations which state that the independent investigator cannot be:

- A governor of the school in question.
- A governor from another school within the federation of schools
- A parent/carer of a current or former pupil of the school in question.
- A current or former member of staff at the school in question.
- A member or person currently employed by the LA that maintains the school.
- A trustee of the school.
- A member of the diocesan authority of the school in question.
- The body that appoints the foundation governors to the school governing body.

10.8 In undertaking the investigation of allegations against school staff, an independent investigator may seek the agreement of the statutory authorities to the sharing of information gathered during a child protection investigation. The sharing of such information should take place within the framework of local multi-agency protocols, which are in place in each Local Safeguarding Children Board area.

## **11. Supporting those involved**

11.1 Children have a right to be safeguarded and protected from harm. Any allegation of abuse made by a child should be taken seriously and the child should be listened to and dealt with sensitively. In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's social services, or the police, as appropriate should consider what support the child or children involved may need including advocacy or counselling. Every effort should be made to ensure minimal disruption to the child's education. The child should be kept informed of progress subject to their age and understanding.

11.2 Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations 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 children's social services or the police. The individual should be advised to contact their trade union representative, if they have one, or a colleague for support. They should also be given access to welfare counselling or medical advice where this is provided by the employer.

11.3 The case manager should appoint a named representative to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual. For staff in maintained schools, that may include support via the local authority occupational health or employee welfare arrangements. 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 should

not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

## **12. Confidentiality**

12.1 It is extremely important that when an allegation is made, the school or FE college makes every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2011 introduced reporting restrictions 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 General Teaching Council for Wales<sup>7</sup> GTCW published information about an investigation or decision in a disciplinary case arising from the allegation. The reporting restrictions will 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.

12.2 The legislation imposing restrictions makes clear that “publication” of material that may lead to the identification of the teacher who is subject of the allegation is prohibited. “Publication” includes any speech, writing material, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public”. This means that a parent who, for example, published details of an 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).

12.3 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).

12.4 The head teacher should take advice from the LADO, police and children’s social services to agree the following:

- Who needs to know and, importantly, exactly what information can be shared;
- How to manage speculation, leaks and gossip;

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<sup>7</sup> Once relevant provisions in the Education Act (Wales) 2014 are commenced (expected to be 1 April 2015) the General Teaching Council will become the Education Workforce Council.

- What, if any information can be reasonably given to the wider community to reduce speculation; and
- How to manage press interest if and when it should arise.

### **13. Resignations and ‘settlement/compromise agreements’**

13.1 If the accused person resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with this guidance. Schools and colleges have a legal duty to refer to the DBS anyone who has harmed, or poses a risk of harm, to a child, or if there is reason to believe the member of staff has committed one of a number of listed offences, and who has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left<sup>8</sup>. A referral to the DBS must be made if the criteria are met. A settlement/ compromise agreement which prevents the school or college from making a DBS referral when the criteria are met would likely result in a criminal offence being committed as the school or college would not be complying with its legal duty to make a referral.

13.2 It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to co-operate with the process. Wherever possible the accused should be given a full opportunity to answer the allegation and make representations about it. However, the process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be substantiated on the basis of all the information available, should continue even if that cannot be done or the accused does not co-operate. 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. However it is important to reach and record a conclusion wherever possible.

13.3 So called ‘compromise agreements’ by which a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, should **not** be used in these cases. Such an agreement will not prevent a thorough police investigation where that is appropriate.

13.4 Nor can it override the statutory duty to make a referral to the Disclosure and Barring Service (DBS) where circumstances require that and to ensure that the employer complies with its obligations under the Education (Supply of

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<sup>8</sup> The list of offenses is set out in the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009 (SI 2009 No. 37)(amended).

Information)(Wales) Regulations 2009. <http://www.assemblywales.org/bus-home/bus-guide-docs-pub/bus-business-documents/bus-business-documents-doc-laid.htm?act=dis&id=131508&ds=7/2009>

## **14. Record keeping**

14.1 Details of allegations that are found to have been malicious should be removed from personnel records. However, for all other allegations, it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the confidential personnel file of the accused, and a copy provided to the person.

14.2 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 future DBS Disclosures reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record should be retained at least until the accused has reached normal retirement age, or for a period of 10 years from the date of the allegation if that is longer.

14.3 The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on employment retention  
[http://ico.org.uk/for\\_organisations/data\\_protection/topic\\_guides/employment](http://ico.org.uk/for_organisations/data_protection/topic_guides/employment)

## **15. References**

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

## **16. Timescales**

16.1 It is in everyone's interest to resolve cases as quickly as possible, consistent with a fair and thorough investigation. All allegations must be investigated as a priority to avoid any delay. Target timescales are shown below: 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 these targets should be achieved in all but truly exceptional cases. It is expected that 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.



16.2 For those cases where it is immediately clear that the allegation is demonstrably false or unfounded they should be resolved within one week. Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the employer to deal with it, although if there are concerns about child protection, the employer should discuss the allegation with the LADO. In such cases, if the nature of the allegation does not require formal disciplinary action, the employer should institute appropriate action within five school days. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 40 school days.

## **17. Oversight and monitoring**

17.1 In accordance with Safeguarding Children: Working Together Under the Children Act 2004 ('Working Together') the local authority social services should have overall responsibility for:

- ensuring that the authority operates procedures for dealing with allegations in accordance with 'Working Together'
- resolving any inter-agency issues; and
- liaison with the LSCB on the subject.

17.2 The Local Authority Social Services should designate officers to be involved in:

- the management and oversight of individual cases;
- providing advice and guidance to employers/voluntary organisations;
- liaising with the police and other agencies; and
- monitoring the progress of cases to ensure they are dealt with as quickly as possible consistent with a thorough and fair process

17.3 In this guidance we have referred to this designated person as the LADO.

17.4 In accordance with 'Working Together' police forces should also identify officers who will be responsible for:

- liaising with the LADO;
- taking part in the strategy discussion or initial evaluation;
- subsequently reviewing the progress of those cases in which there is a police investigation; and
- sharing information on completion of the investigation or any prosecution.

17.5 If the strategy discussion or initial assessment decides that a police investigation is required, the police should also set a target date for reviewing the progress of the investigation and consulting the CPS about whether to: charge the

individual; continue to investigate; or close the investigation. Wherever possible, that review should take place no later than four weeks after the initial evaluation. Dates for subsequent reviews, ideally at fortnightly intervals, should be set at the meeting if the investigation continues.

## **18. Suspension**

18.1 The possible risk of harm to children posed by an accused member of staff should be effectively evaluated and managed in respect of the child (ren) involved in the allegation. In some cases it will require the case manager to consider suspending the member of staff until the case is resolved.

18.2 Employers must consider carefully whether the circumstances of a case warrant a member of staff being suspended from contact with children at the school or whether alternative arrangements can be put in place until the allegation or concern is resolved.

18.3 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 case manager is concerned about the welfare of other children in the community or the member of staff's family, those concerns should be reported to the LADO or police. But suspension is highly unlikely to be justified on the basis of such concerns alone.

18.4 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 significant harm and/or where the allegation warrants a criminal investigation by the police or the case is so serious that it might be grounds for dismissal. However, the member of staff should not be suspended automatically. The case manager must consider carefully whether the circumstances warrant suspension from contact with children at the school or FE college or until the allegation is resolved, and may wish to seek advice from their personnel adviser and the LADO.

18.5 Children's social services or the police cannot require the case manager to suspend a member of staff. The strategy meeting can only recommend suspension, although the headteacher or governing body should give appropriate weight to their advice. The power to suspend is vested in the headteacher or the governing body. However, where a strategy discussion concludes that there should be enquiries by the children's social services and or investigation by the police, the LADO should canvass police and social services views about whether the accused member of staff needs to be suspended from contact with children in order to inform the school's consideration of suspension. 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 which should be shared with the members of the strategy group.

18.6 Where it has been deemed appropriate to suspend the member of staff, written confirmation should be dispatched within one working day, giving as much detail as appropriate for the reasons for the suspension. It is not acceptable for an employer to leave a person who has been suspended without any support. The person should be informed at the point of their suspension who their named contact is within the organisation and be provided with their contact details.

## **19. Information sharing**

19.1 In a strategy discussion or the initial evaluation of the case, the agencies involved should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.

19.2 Where the police are involved, wherever possible the employer should ask the police to obtain consent from the individuals involved to share their statements and evidence for use in the employer disciplinary process. This should be done as their investigation proceeds and will enable the police to share relevant information without delay at the conclusion of their investigation or any court case.

19.3 Children's social services should adopt a similar procedure when making enquiries to determine whether the child or children in the allegation are in need of protection or services, so that any information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to the employer or independent investigator without delay.

## **20. Action following a criminal investigation or a prosecution**

20.1 The police or the CPS should inform the employer 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. In those circumstances the LADO should discuss with the case manager whether any further action, including disciplinary action, is appropriate and, if so, how to proceed.

20.2 The information provided by the police and/or children's social services should inform that decision. The options will depend on the circumstances of the case and the consideration will need to take into account the result of the police investigation or the trial as well as the different standard of proof required in disciplinary and criminal proceedings.

## **21. Action on conclusion of a case**

21.1 If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, the LADO should discuss with the case manager and their personnel adviser whether to refer the case to the DBS for consideration or inclusion on the barred lists is required<sup>9</sup>; and in the case of a member of teaching staff whether to refer the matter to the General Teaching Council for Wales.

21.2 There is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child. In such circumstances, the duty to refer an individual to the DBS where an employer has removed the individual from relevant work with children or the person has chosen to cease relevant work in circumstances where they would have been removed had they not done so. The DBS will consider whether to bar the person from working in regulated activity, which will include most work in schools and other establishments. Local authorities, schools, FE colleges and other bodies all have a statutory duty to make reports, and to provide relevant information to the DBS. Referrals 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.

21.3 Professional misconduct cases should be referred to the relevant regulatory body. Under the Education Supply of Information)(Wales) Regulations 2009 employers of teachers registered with the General Teaching Council for Wales (GTCW) and supply agencies must report cases of misconduct and professional incompetence to the GTCW where the teachers have not harmed, or posed a risk of harm, to children and/or vulnerable adults. Under the terms of the Teaching and Higher Education Act 1998, as amended by the Education Act 2002, the GTCW is responsible for investigation and hearing cases of unacceptable professional conduct, serious professional incompetence and/or where a teacher has been convicted (at any time) of a relevant offence, or it appears that a registered teacher may be so guilty or have been so convicted.

## **22. Learning lessons**

22.1 At the conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the case manager to determine whether there are any improvements to be made to the school's procedures or practice to help prevent similar events in the future. This should include issues

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<sup>9</sup> Referrals to the DBS: <https://www.gov.uk/government/publications/dbs-referrals-form-and-guidance>

arising from the decision to suspend the member of staff, the duration of the suspension and whether or not the suspension was justified. Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated. The LADO and the case manager should consider how future investigations of a similar nature could be carried out without suspending the individual.

## **23. Action in respect of unfounded or malicious allegations**

23.1 If an allegation is determined to be unfounded or malicious, the LADO should refer the matter to the children's social services to determine whether the child concerned is in need of services, or may have been abused by someone else. If an allegation is shown to be deliberately invented or malicious, the headteacher, principle or proprietor should consider whether any disciplinary action is appropriate against the pupil who made it; (in accordance with the school's pupil disciplinary policy), or whether the police should be asked to consider if action might be appropriate against the person responsible, even if he or she was not a pupil.

## **24. Further information**

24.1 The Crown Prosecution Service published guidance for the police on harassment under the Protection from Harassment Act 1997 can be accessed at: [http://www.cps.gov.uk/legal/s to u/stalking\\_and\\_harassment/index.html](http://www.cps.gov.uk/legal/s to u/stalking_and_harassment/index.html)

24.2 Guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on employment retention.

[http://www.ico.gov.uk/upload/documents/library/data\\_protection/detailed\\_specialist\\_guides/employment\\_practices\\_code.pdf](http://www.ico.gov.uk/upload/documents/library/data_protection/detailed_specialist_guides/employment_practices_code.pdf) and [http://www.ico.gov.uk/for\\_organisations/data\\_protection/the\\_guide.aspx](http://www.ico.gov.uk/for_organisations/data_protection/the_guide.aspx)

24.3 Guidance on how to make a referral to the DBS can be accessed at: <https://www.gov.uk/government/publications/dbs-referrals-form-and-guidance>