

# Dealing with allegations of abuse against staff

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The Education Fellowship follows the DfE statutory guidance relating to an academy's duties in handling allegations of abuse against teachers and other staff.

The guidance 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 Education (Independent School Standards) (England) Regulations 2010
-  the Children Act 2004;
-  section 11 of the Children Act 2004 (other agencies); and
-  sections 141F, 141G and 141H3 of the Education Act 2002

## Rationale

If an allegation is made against a teacher or other staff the quick resolution of that allegation should be a clear priority to the benefit of all concerned. At any stage of consideration or investigation, all unnecessary delays should be eradicated.

In response to an allegation, staff suspension should not be the default option. An individual should only be suspended if there is no reasonable alternative. If suspension is deemed appropriate, the reasons and justification should be discussed with the CEO of The Education Fellowship who will make the final decision on the suspension. The individual should then be notified of the reasons behind the suspension.

Allegations that are found to have been malicious should be removed from personnel records and any that are not substantiated, are unfounded or malicious should not be referred to in employer references.

Students that are found to have made malicious allegations are likely to have breached academy behaviour policies. The academy will therefore consider

whether to apply an appropriate sanction, which could include temporary or permanent exclusion (as well as referral to the police if there are grounds for believing a criminal offence may have been committed).

The academy follows clear procedures for dealing with allegations of abuse against staff. All allegations should be reported straight away to the academy's senior nominated officer (SNO). The Chief Executive of The Education Fellowship is the person to whom reports should be made in cases where the principal/head him/herself is the subject of the allegation or concern. The local authority designated officer (DO) is responsible for providing advice and monitoring cases.

## Statement of procedures

Where it is alleged that a teacher or member of staff (including volunteers) in the academy has:

-  behaved in a way that has harmed a child, or may have harmed a child;
-  possibly 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

the following procedures will be used.

-  In the first instance, the academy's senior nominated officer will obtain written details of the allegation, signed and dated by the person receiving the complaint or allegation (not the child/ person making the allegation).
-  The SNO or his/her representative will
  - countersign and date the written details
  - record any other information about times/ dates and location of incidents and names of any potential witnesses
  - Consider in consultation with the HR advice the appropriateness of implementing disciplinary procedures e.g. suspension of the person subject to the allegations

The SNO or his/her representative will not investigate the matter by interviewing the accused person, the child or potential witnesses. The SNO or his/her representative will report the allegation to the DO within 1 working day.

The DO and SNO will:

-  Establish that the allegation is within the scope of these procedures
-  Verify whether there is evidence or information that establishes that the allegation is false or unfounded
-  Consider whether further information is needed.
-  Consider carefully whether suspension is needed

The DO will consider whether a strategy meeting should be initiated at which representatives of the police, children's social care and the academy will be present to consider three strands:

-  If there is a criminal case to answer
-  If there is a child protection concern or
-  If the matter is to be referred back to the Academy to consider whether disciplinary action is required.

In the case of such a meeting being convened the academy will act in line with any decisions made at this meeting.

The outcome of allegation investigations will be determined as one of the following:

-  Substantiated: there is sufficient identifiable 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;
-  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.

## Action on conclusion of a case

If the allegation is substantiated and the person is dismissed or the academy ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the DO will discuss with the SNO and seek HR advice whether to refer the case to the Disclosure & Barring Service for consideration of inclusion on the barred lists.

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 arises 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 educational 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.

So-called 'compromise or settlement 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. Nor can it override the statutory duty to make a referral to the DBS where circumstances require that.

Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the SNO after seeking HR advice will consider how best to facilitate that. Most people will benefit from some help and support to return to work after a 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 SNO 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 a student at the academy.

This policy shall be subject to yearly review.