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**Policy for Headteachers / Governing Bodies of Voluntary Controlled and Community Schools on the Statutory Guidance document titled: *'Dealing with allegations of abuse against Teachers and other staff'*.**

The statutory guidance found [here](#) applies to all adults working with children and young people whether in a paid / voluntary capacity. Schools must follow it when carrying out duties relating to handling allegations against teachers and other staff.

The statutory guidance refers to the employer throughout which for Community and Voluntary Controlled schools is Central Bedfordshire Council. As the Schools Statutory HR team will not be involved in the decisions being made by Headteachers / Governing Bodies when dealing with allegations of abuse, the following document has been produced to outline the Council policy on what should occur.

Outlined below are the relevant bullet points / sections in the statutory guidance with the CBC Policy Note beneath them. The statutory guidance points are indicated in italics.

**Key Points - Bullet Point 2**

- *In response to an allegation all other options should be considered before suspending a member of staff: suspension should not be the default option. An individual should be suspended only if there is no reasonable alternative. If suspension is deemed appropriate, the reasons and justification should be recorded by the employer and the individual notified of the reasons.*

**CBC Policy Note**

When making the decision to suspend an employee or not Headteachers / Governing Bodies must consider the views of the LADO (known as Allegations Manager in the Council)

Due to the Headteacher / Governing Body making the decision to suspend or not in consultation with their HR provider and not the Council, it will be for the Headteacher / Governing Body to record the reasons and justification for suspension and to ensure the individual concerned is notified of the reasons.

**Key Points - Bullet Point 4**

- *Pupils that are found to have made malicious allegations are likely to have breached school behaviour policies. The school or college should 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).*

## **CBC Policy Note**

Headteachers must ensure that this is incorporated into their own school behaviour policy in light of the above bullet point.

### **Key Points - Bullet Point 5**

- *All schools and FE colleges should have procedures for dealing with allegations. 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, often the chair of governors, to whom reports should be made in the absence of the head teacher or principal; 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 (LADO) responsible for providing advice and monitoring cases.*

## **CBC Policy Note**

If any maintained school does not have an allegations procedure there is a [Staff Facing an Allegation of Abuse - Guidelines on practice and procedure](#) document available on the schools HR pages which can be used.

The council LADO's contact details are: 0300 300 4833, 0300 300 5782  
[rosemary.webster@centralbedfordshire.gov.uk](mailto:rosemary.webster@centralbedfordshire.gov.uk) /  
[owen.phillips@centralbedfordshire.gov.uk](mailto:owen.phillips@centralbedfordshire.gov.uk)

## **DUTIES AS AN EMPLOYER AND EMPLOYEE**

### **Point 3**

*Employers have a duty of care to their employees. They should ensure they provide effective support for anyone facing an allegation and provide the employee with a named contact if they are suspended.*

## **CBC Policy Note**

When considering who the named contact should be for the suspended person it must be made clear to both parties what this persons role will be and agreement is made regarding how contact is made and how frequent. The named contact could be an independent member of the schools Senior Leadership Team (SLT).

## **INITIAL CONSIDERATIONS**

### **Point 6**

*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.*

## **CBC Policy Note**

The above scenario relies on a judgement call being made by the Headteacher / Governing Body (whoever the allegation is raised with). The Council views on 'local arrangements' are that contact must be made with the allegations manager who will advise if a Joint Evaluation Meeting (JEM) is required.

**Point 11**

*The case manager should inform the accused person about the allegation as soon as possible after consulting the LADO. It is extremely 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 care 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 accused. Employers must consider carefully whether the circumstances of a case warrant a person 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. All options to avoid suspension should be considered prior to taking that step. (Please see further information on suspension below).*

**CBC Policy Note**

Headteachers / Governing Bodies are requested to contact the LADO before providing any information to the accused person.

**SUPPORTING THOSE INVOLVED**

**Point 16**

*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 care 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.*

**CBC Policy Note**

The Headteacher / Governing Body should provide the contact details of the Occupational Health service and any Employee Support Service they offer to the employee.

The employee is advised to contact their Trade Union representative or Professional Association representative or contact Citizens Advice.

**Point 18**

*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 of it. However, where a strategy discussion is required, or police or children's social care services need to be involved, the case manager should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers. Parent or carers should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, including the*

outcome of any disciplinary process. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but the parents or carers of the child should be told the outcome in confidence.<sup>1</sup> 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.

### **CBC Policy Note**

Headteachers / Governors must contact the LADO before providing any information to the parents or carers of a child or children involved.

Guidance must be sought from their HR provider when deciding if any information about any disciplinary proceedings can be released.

### **CONFIDENTIALITY**

#### **Point 20**

*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 Secretary of State or the General Teaching Council for Wales 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. The provisions commence on 1 October 2012.*

### **CBC Policy Note for points 20, 21, 22 & 23**

Headteachers / Governors must follow the guidance issues in Central Essentials **issue number 142** titled Anonymity for Teachers accused by or on behalf of pupils for guidance on the above points.

### **RESIGNATIONS AND 'COMPROMISE AGREEMENTS'**

#### **Point 24**

*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. 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 cooperate with the process. Wherever possible the accused should be given a full opportunity to answer the allegation and make representations about it. But the process of recording the allegation and any supporting evidence,*

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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.

*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 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.*

**Point 25**

*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. Nor can it override the statutory duty to make a referral to the Independent Safeguarding Authority (ISA) (Disclosure and Barring Service (DBS) from December 2012) where circumstances require that.*

**CBC Policy Note for Points 24 & 25**

It is Council Policy to hold a disciplinary hearing if necessary and to not enter into 'Compromise Agreements' also known as 'settlement agreements' for matters relating to Safeguarding.

**SUSPENSION**

**Point 36**

*Suspension should be considered only in a case where there is cause to suspect a child or other children at the school or FE college is/are at risk of significant harm or the case is so serious that it might be grounds for dismissal. However, a person 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.*

**CBC Policy Note**

Headteachers / Governors should contact their HR provider and obtain advice before taking the decision to suspend an employee.

**Point 37**

*The case manager should also consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements. In many cases an investigation can be resolved quickly and without the need for suspension. If the LADO, police and children's social care services have no objections to the member of staff continuing to work during the investigation, the case manager should be as inventive as possible to avoid suspension. Based on assessment of risk, the following alternatives should be considered by the case manager before suspending a member of staff:*

- redeployment within the school or college so that the individual does not have direct contact with the child or children concerned;*
- providing an assistant to be present when the individual has contact with children;*

- redeploying to alternative work in the school or college so the individual does not have unsupervised access to children;
- moving the child or 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
- temporarily redeploying the member of staff to another role in a different location, for example to an alternative school or college or work for the local authority or academy trust.

### **Point 38**

*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 case manager should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended.*

### **Point 39**

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

### **CBC Policy Note for points 37, 38 & 39**

A template risk assessment has been produced which must be used to document the decision taken on whether to suspend the accused employee or not. This can be found at Appendix A.

### **Point 40**

*Where it has been deemed appropriate to suspend the person, 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 provided with their contact details.*

### **CBC Policy Note**

Headteachers / Governors must ensure a named contact is in place for the person suspended and they are aware of the remit of their role. Headteachers / Governors must contact their HR provider to ensure written confirmation of the suspension is sent to the employee within one working day.

Headteachers / Governors must ensure that regular review of the suspension is undertaken and the accused only remains suspended for as long as necessary.

### **ACTION ON CONCLUSION OF A CASE**

### **Point 46**

*If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the LADO should discuss with the case manager and their personnel adviser whether to refer the case to the ISA (DBS from December 2012) for consideration of inclusion on the barred lists; or to refer to the Teaching Agency.*

**Point 47**

*There is a legal requirement for employers to make a referral to the ISA 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 ISA 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 ISA 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 ISA. 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.*

**CBC Policy Note for points 46 and 47**

The Schools statutory HR team must be involved in any discussions when determining if a former employee should be referred to the DBS.

*Point 49*

*Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the case manager should 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 case manager 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 pupil at the school or FE college.*

**CBC Policy Note**

When planning for the employee returning to work, if they are a member of a Trade Union / Professional Association a four way meeting between the individual, their representative the case manager and the schools HR provider can be useful in these circumstances.