



Allegations against Staff Procedure

Adopted: Spring 2020
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| 1. | Introduction | The text remains largely as the previous version but has been reformatted. Addition of "Definitions" Legal Framework section removed – relevant references made in body of document |
| 1.4 | Training | Addition of reference to on–line safe recruitment training for governors |
| 2. | Scope | New heading for text already included |
| 3. | Roles & Responsibilities | Governors, Designated Person and Essex Safeguarding Service sections updated in line with DfES/SET guidance |
| 7.1 | Records | Length of retention amended in line with DfES/SET guidance |
| Appendix D | Use of evidence | Amended in line with DfES/SET guidance – Police expected to seek permission for evidence to be passed to employers for use in internal procedures. |

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1. INTRODUCTION

This document contains guidance and sets out the procedures that will be followed in the event of a child protection related allegation being made against someone working at the school.

1.1 Policy Statement

The Governing Body shares, with everyone in Education and Children's Services, an objective to help keep children and young people safe by contributing to:

- Providing a safe environment for children and young people to learn
- Identifying children and young people who are suffering or likely to suffer harm and taking appropriate action with the aim of making them safe

The Governing Body recognises that staff are uniquely placed to have a positive role in child protection. As responsible adults outside pupils' homes, they are in a position to observe children on a daily basis and therefore to spot physical or emotional signs that might indicate they are being abused. Close interaction can also make staff vulnerable to allegations being made against them.

Such allegations may be unfounded and be either deliberate or innocent of such intent. Regrettably, on occasions, staff do commit acts of abuse or ill-treatment. However, whatever the basis of an allegation, once made, there can follow a period of great difficulty and stress for the young person concerned, the staff member and for those 'managing' the situation, including headteachers, senior staff and governors.

While such difficulties cannot always be avoided, the Governing Body is committed to mitigating the effects on all children, young people and adults concerned. To achieve this objective the Governing Body has systems to:

- prevent unsuitable people working with children and young people, through safe recruitment practices;
- promote safe practice and challenge poor and unsafe practice, through its policies, practice and training;
- identify instances in which there are grounds for concern and take appropriate action, using appropriate policies, procedures and systems;
- contribute to effective partnership working between all those involved in providing services for children and young people.

1.2 Definitions

A "child protection allegation" may be defined as a report that there has been:

- behaviour or conduct which has harmed a child or may have harmed a child;
- a criminal offence committed against or related to a child;
- behaviour or conduct towards a child which may indicate a person is unsuitable to work with children;
- abuse of the position of trust as defined by the Sexual Offences Act 2003 (s. 16-24).

1.3 Pre-Employment Screening

Although it affords no guarantees that child protection issues will not arise, schools and other education establishments should ensure that appropriate pre-employment checks are carried out on all relevant staff including voluntary helpers. These procedures include:

- screening potential employees through the Criminal Records Bureau, DfE and Authority 'lists';
- ensuring that all staff and volunteers are registered with the Independent Safeguarding Authority (when applicable);
- undertaking pre-employment medical screening;
- verifying qualifications, professional status and employment history;
- obtaining satisfactory professional references.

Detailed guidance on these procedures is contained in the School's Recruitment and Selection Procedure and DfES Guidance: Safeguarding Children and Safer Recruitment in Education (1 January 2007) which should be followed by all education establishments.

It is illegal to offer employment that involves regular contact with young people under the age of 18 to anyone who has been convicted of certain specific offences and/or is included on lists of people considered unsuitable for such work, held by the DfES and the Department for Health.

The HR Schools Team can offer further advice on these issues. Contact 01245 436120.

1.4 Training

It is essential that all staff receive regular training on child protection issues and steps should be taken to ensure that all new staff are also trained. In addition to protecting children, the training also enables staff to be more aware of their own vulnerabilities and to take steps to minimise these. All staff should be clear about the circumstances in which physical contact is allowed by law and by any local policy (which may further restrict these). Training sessions may be available from the Essex Safeguarding Service (for general all child protection matters) the HR Schools Team (on issues relating to allegations against members of staff).

Staff and Governors should have training on appointment and receive refresher training at 3 yearly intervals thereafter to keep their knowledge and skills up to date. Staff with designated Child Protection responsibilities should receive refresher training at 2 yearly intervals.

One member of any recruitment selection panel should have received on-line training in safer recruitment. This is available through the Children's Workforce Development Council (formerly through the NCSL)

2. SCOPE OF THE PROCEDURE

This document sets out the procedures applicable in cases where allegations are made against:

- Employees
- Volunteers
- Agency staff
- Consultants

This document does not replace the Essex Child Protection Guidelines (the S.E.T. Procedures) in any way but, rather, are intended to supplement them in relation to the purely personnel-related aspects of dealing with the situation.

3. ROLES AND RESPONSIBILITIES

3.1 *The Governing Body*

3.1.1 The Governing Body will ensure that:

- Child protection policies and procedures are in place;
- The school operates safe Recruitment procedures.

3.1.2 Nominated Governor

A governor will be nominated to liaise with the headteacher/designated person over matters regarding child protection issues to:

- ensure procedures are consistent with S.E.T. procedures;
- ensure that an annual item is placed on governors' agenda to report on changes to policy/procedures, training, incidents/cases (without details or names) and the position of child protection issues in the curriculum;
- have an overview of procedures relating to liaison between the school and other agencies in relation to any allegations. (The nominated governor should not be directly involved in the implementation of disciplinary procedures related to allegations against the headteacher, but may attend the strategy meeting in such cases and will ensure good communication between parties and provide procedural information to assist such investigations).

The Nominated Governor for Child Protection and Safeguarding is Alice Bush.

3.1.3 Other governors

- Where allegations are made against the headteacher, the Chair of Governors (or Vice-Chair) should normally implement the appropriate procedures.
- Other Governors, particularly Members of the School's Discipline/Dismissal and Discipline/Dismissal Appeals Committee should distance themselves from any investigation or detail related to allegations against members of staff to ensure that they are untainted when it comes to hearing cases that may be brought before them.

- It is advised that all Governors should have training about child protection and Governors sitting on recruitment panels should undertake Safer Recruitment training.

3.2 Designated Person

A senior member of staff (a member of the leadership team) should be nominated to have specific responsibility within the school for child protection matters, specifically:

- Taking lead responsibility for dealing with child protection issues
- Providing advice and support to other staff
- Liaising with the local authority and working with other agencies
- Providing support for individual children

It may be appropriate for another senior employee to be named as deputy designated person. The Designated person need not be a teacher but must have sufficient knowledge and skills, and status and authority within the school, to carry out the role.

3.3 Essex Education Safeguarding Service

The Essex Education Safeguarding Service (ESS) will be responsible for co-ordinating Education Service policy and action on child protection matters relating to maintained schools. Specifically, the ESS will be responsible for:

- provision of advice, guidance and support;
- development of good working relationships and partnerships;
- training and awareness raising;
- promoting safe and positive environments;
- management of allegations;
- development, planning and monitoring.

Contact details: 01245 436744

3.4 The Headteacher and Other Managers

The headteacher is responsible for:

- creating a safe and open environment in which pupils and staff feel able to raise concerns.
- ensuring all staff are aware of child protection procedures.
- providing regular child protection/refresher training for staff (see 1.4 above).

The headteacher, or other appropriate managers will be responsible for:

- implementing child protection/disciplinary procedures where allegations are made against members of staff other than the Headteacher.
- allocating sufficient time and resources to child protection matters.

3.5 Other Staff, Volunteers and Consultants

It is the duty of all to:

- be familiar, and comply, with all relevant child protection policies and procedures;
- attend relevant training;
- report all concerns promptly and co-operate with procedures to deal with them.

3.6 No recipient of an allegation must unilaterally determine its validity, and failure to report it in accordance with procedures is a potential disciplinary matter.

4. THE PROCEDURE

4.1 Principles

4.1.1 The following principles should be applied to all reports involving a child protection issue:

- Child protection procedures must be followed in all cases
- All cases must be referred immediately (within 1 working day) to the Essex Safeguarding Service (ESS) [See Section 3.3]
- The school must take no action until ESS has been consulted – only brief open questions may be asked to establish basic information where necessary
- All cases must be taken seriously
- All parties must work co-operatively with other agencies
- All cases must be dealt with fairly, quickly and consistently to provide effective protection for the child and at the same time support the person who is the subject of the allegation
- Statements must not be taken at the initial stage, but signed and dated contemporaneous notes should be made at every stage of the process (see Section 4.3)
- The same procedures should be applied to staff, volunteers and others. Where variations are necessary these are highlighted within the procedure

4.1.2 Throughout this procedure, where an allegation is made against the headteacher (or equivalent), the Chair of Governors should normally take the role assigned to the headteacher [See Section see 3.1.3].

4.1.3 A summary of the Procedure is at Appendix A

4.2 Complaints and Allegations

4.2.1 Concerns about the behaviour of a member of staff towards a pupil may be made in the form of a complaint or an allegation. These terms are often used interchangeably and it is important, therefore, to consider the details of the alleged incident and not to the label attached to it. Any complaint with a child protection element should be responded to as a child protection allegation in the first instance.

4.2.2 Allegations may come from various sources

- from parents in person, by telephone or by letter;
- from other members of staff, other professional or other agencies e.g. Police/Social Care;
- directly from pupils themselves;
- indirectly from pupils e.g. through written/art work or through friends; and,
- occasionally anonymously.

4.2.3 Allegations may also be made at any time from immediately after an incident has taken place to weeks months or even years after the event. It may therefore be necessary to take a slightly different approach, depending on the circumstances.

4.2.4 In all cases, however, it is essential that allegations are taken seriously and acted upon as a matter of priority and in accordance with procedures. Social Care and/or the Police will investigate all allegations against parents or other family members, and the same standards apply to allegations against staff, however difficult this may be.

4.2.5 There may be some occasions where there is a suspicion about the conduct of a member of staff, but no allegation. The approach in these situations is dependent to a certain degree upon the nature of the suspicions. Where, for example, the situations arise from the conduct/behaviour of the employee, it may be appropriate to increase monitoring or supervision in order to assess the situation. However, in other cases, where the allegation is reported, the S.E.T. procedures should be implemented promptly.

4.3 ***Establishing the Basic Facts***

4.3.1 When an allegation of inappropriate behaviour is received by the school, it is essential that headteacher and other managers and advisers do not begin a full investigation. This would breach Child Protection Procedures and may impede a criminal investigation. Schools should contact the Essex Safeguarding Service without delay, who will support managers with managing the process. This means that interviews should not be conducted with pupils, members of staff or potential witnesses at this stage. However, it is obviously necessary to establish the basic facts.

4.3.2 As soon as an allegation is made, details should be written, signed and dated by the person who received the allegation (not the child who made and/ or was the subject of the allegation). The allegation should be reported immediately to, and the written record countersigned by, the headteacher (or Chair of Governors where the headteacher is the subject of the allegation).

4.3.3 Headteachers should undertake, or cause to be undertaken, some brief preliminary enquiries to try to establish whether something has occurred. In undertaking these enquiries the ESS should be consulted and the following guidelines should be followed. [See also Appendix B].

- Where there are adult witnesses, these should be the primary source of information at this stage, ie avoid talking to children where possible.
- Where the child has made a direct complaint e.g. to a member of staff, there should be no further need to talk to him/her at this stage
- Gathering information from other children at this stage should not normally be necessary.
- Talk to as few people as is absolutely necessary to gather a general idea of what may/may not have happened.
- In all cases, only brief open questions should be asked about what happened, taking into account the source of the complaint.
- Statements must not be taken, although notes should be made by the manager. These should include what was said by the manager and who was present. Such notes are evidential and should be signed and dated.

4.3.4 Where the allegation is initially made to Social Care and/or the Police, these agencies will determine the preliminary steps to be followed.

4.3.5 A difficult judgement may need to be made about what enquiries to make at this stage and, advice should be sought from the ESS in the first instance.

4.3.6 In cases where Social Care/the Police subsequently wish to investigate, schools may be asked not to disclose information about the allegations to the member of staff, so that any subsequent proceedings are not prejudiced. As well as breaching the child protection legislation, if the employer discloses too much information or asks too many detailed questions, there are vulnerabilities in employment law and ultimately, the employer could be liable to prosecution for obstructing justice. The ESS will discuss with the school, what information can be disclosed. [Refer to Appendix D]

4.3.7 Appendix B gives some examples of procedures for conducting preliminary enquiries and particularly in dealing with pupils in this respect.

4.3.8 Informing the employee and parents (see also Section 6 - Sharing Information)

Advice should be sought from ESS, who will liaise with Social Care/the Police, about what information can be given to the employee and parents as it is important that information or advice given does not impede the enquiry, disciplinary or investigatory processes. In general:

- The member of staff will normally need to be told that an allegation has been made and advised as soon as possible of the likely course of action. Employees should be encouraged to speak to their Trade Union/Professional Association. Non-union members may wish to contact the Citizens Advice Bureau or seek legal advice.
- Parents will normally need to be informed, at an early stage, that an allegation has been made and the likely course of action. It is important to explain to parents if a referral is to be made, that this is in accordance with Child Protection Procedures and does not indicate that any impropriety has been found.

4.4 Initial Determinations

- 4.4.1 Managers and their advisers should be cautious at this stage about making judgements about the allegations and particularly about forming their own view about what a child has said. However, preliminary enquiries should enable the head of establishment to:
- establish the basic facts;
 - determine whether the allegations require further investigation by the relevant agencies and therefore the subsequent steps within the child protection procedures as described in subsequent sections.

It is important to recognise that establishing whether an allegation warrants further investigation is not the same thing as deciding that an allegation is well founded. Only if an allegation is trivial or demonstrably false will further investigation NOT be warranted.

- 4.4.2 Where the allegation is against a member of staff not employed directly by the school, the employing agent should be contacted (the Authority for behaviour support, music, traveller education staff etc or the employment agency) as soon as possible. The Essex Safeguarding Service should be contacted in all cases. Ideally, in these circumstances, the Authority/agency will work jointly with the school to work through the child protection procedures. In the case of agency staff, the school may request that the agency no longer sends the person to the school, although it is anticipated that child protection procedures would be followed through.

- 4.3 The Essex Safeguard Service should be consulted about the appropriate next steps. In general, the preliminary findings and resultant actions will be as follows.

4.5 Next Steps

- 4.5.1 If the allegation indicates that the child has suffered, is suffering or is likely to suffer significant harm, the Essex Safeguarding Service will make an immediate referral to Children's Social Care in accordance with S.E.T. procedures. The referral process is outlined in more detail in Section 4.6.

If the allegation is considered to be a potential criminal act, the Safeguarding Service will contact the Police Child Abuse Investigations Unit (CAIU) and Children's Social Care.

- Where there is a concern that a serious incident has taken place, a decision may need to be made at this stage about whether the member of staff should remain in school during the investigation period [See Section 4.8]. If insufficient information is available, a decision on this issue may be deferred.
- 4.5.2 There will be other instances however, where allegations do not require referral. (Again, advice should be sought from the ESS).
- Where the allegation relates to the use of reasonable force to restrain a pupil, in accordance with S 550A of the Education Act 1996 and LA Guidance on the use of Physical Intervention in Education Establishments. An allegation of

assault beyond the use of reasonable force would however need to be dealt with according to Area Child Protection Procedures as described in subsequent sections.

- Where, following initial consideration, it is absolutely clear that the allegation is demonstrably false e.g. the immediate circumstances of the allegation show that it would not be possible for the allegation to be true. However, in these circumstances it should be borne in mind that if a child has made an obviously false allegation, this may well be a strong indicator of abuse elsewhere which requires further investigation. The best way for this to be achieved is through an inter-agency referral in order that any underlying causes can be teased out.
- Where the allegation represents inappropriate or poor practice by the member of staff. Clearly, caution must be exercised and the risk related to the poor practice will determine appropriate action.

In all 3 of the above cases, the matter may be dealt with at school level, using the disciplinary procedures where appropriate. [See Section 4.9].

NB where previous allegations have been made extreme caution should be exercised. This may indicate an ongoing concern about the child or member of staff that needs to be addressed.

4.6 Referral to Children's Social Care

4.6.1 Where the child(ren) has suffered or is/are at risk of significant harm and/or in need of protection no further enquiries should be undertaken by the school and the Essex Safeguarding Service will make an immediate referral to:

- Children's Social Care, who act as the 'lead agency' in such matters. Referrals should be by telephone and confirmed in writing within 24 hours.

The schools should also report the fact of the matter to;

- the nominated governor for child protection;
- the designated teacher for child protection.

The ESS will liaise with other Authority services i.e. HR Schools Team.

4.6.2 Details of the date, time and details of the referral should be recorded, as should all subsequent related telephone calls.

4.6.3 On some occasions, reports may be made directly to Children's Social Care or the Police by parents. The parent may also inform the school, in which case the school should contact the ESS prior to making even the preliminary enquiries described above.

4.7 Children's Social Care/Police Role

- 4.7.1 Once a referral has been made, it is Children's Social Care who will make an initial judgement as to the seriousness of the allegations, and whether further formal action is required. Social Care will also make contact with the Police as necessary.
- 4.7.2 On some occasions, Social Care will be able to make an instant decision, at the time the referral is made, whether the matter is one with which they need to be involved.
- 4.7.3 It is important to remember, that if Social Care decide that no action will be taken by them, this does not necessarily negate the need for the school to undertake an investigation under its own disciplinary procedures [See Section 4.9].
- 4.7.4 In many cases however, within a short period of the referral being made, Social Care will call a Strategy Meeting as follows.
- 4.7.5 A Strategy Meeting is a meeting of various agencies who have a role within the safeguarding procedures. The meeting will be organised and chaired by Children's Social Care and is designed to share information, to plan the investigation, to determine future involvement by other agencies and to plan that involvement as appropriate. Further details on the structure of the meeting are outlined at Appendix C.
- 4.7.6 In addition to Social Care, the Strategy Meeting will normally be attended by:
- a member of the Police Child Protection Unit;
 - the Essex Safeguarding Service
 - the head of establishment;*
 - a HR adviser**
- * A governor (usually the chairman of governors) should attend instead, if the allegation relates to the headteacher. The designated member of staff (where this is not the headteacher) or other senior member of staff may also be invited if appropriate.
- ** The HR Schools Team will often be invited by Social Care directly. HR will usually contact the school prior to the meeting and in the case of Foundation and Voluntary Aided schools will normally only attend with the agreement of the headteacher/governor.
- 4.7.7 Attendance at Strategy Meetings should be regarded as a priority.
- 4.7.8 At the meeting the school representative should have available:

- details of the child(ren) concerned (dates of birth, family details, information on general conduct/behaviour in school);
- details of the member of staff (date of birth, home address, details of any previous incidents, confirmation of police check);
- any information gathered from preliminary enquiries;
- details of employee's own family if known.

Either the school or Authority will be asked to provide details on:

- any known previous incidents involving the member staff;
- confirmation that the member of staff is not on any Lists.

Some or all of these details may be requested by the Police/Social Care in advance of the strategy meeting.

- 4.7.9 If the outcome of the referral/Strategy Meeting is that Social Care and/or the Police wish to investigate the matter, the school must take no further action (other than appropriate action relating to the member of staff's continued presence in post [See Section 4.8] until given leave to do so by Social Care or the Police [See Section D].

4.8 *Alternative Working Arrangements During Investigation*

- 4.8.1 In order to deal with child protection allegations against staff, as with other alleged misconduct under the contract of employment, heads of establishment and governors have disciplinary powers and these powers extend to the ability to suspend staff pending the investigation process.
- 4.8.2 The effecting of suspension is always a difficult decision for managers to take. It can be distressing for the accused person and disruptive for the school. Although managers and staff understand that there is no implication of guilt against the member of staff, the perception of the individual and others can be otherwise and this can result in further pressures in an already tense situation. Nonetheless, if, at any stage, the following circumstances occur, it is, on balance advisable to remove the member of staff from their current situation.
- Where a child or children is/are considered to be at risk.
 - Where the allegations are so serious that dismissal for gross misconduct would be a possible outcome (If the allegations are subsequently proven, it will be more difficult to argue the justification for summary dismissal for gross misconduct (which suggests the continued presence of the employee is intolerable) when the employee remained in post after the allegations were made).
 - Where allowing the member of staff to remain at work could hinder the investigatory process. (An example of this may be where the Police are interviewing children and there is a concern that they may be intimidated (albeit unintentionally) by the employee's presence or there is concern that the employee may try to influence them.)

In many cases, a strategy meeting will provide useful information on which to judge whether the employee should remain in post during the investigation process. The decision however, is one for the school.

- 4.8.3 However, suspension should never be an automatic response to an allegation. Initially, where suspension seems to be appropriate, alternative approaches should be considered. Where possible the employee should be removed from the particular class or area of work or given work to undertake at another site or at home. Ultimately however, where such alternatives are not possible, the member of staff may need to be suspended. Case Law has established that automatic suspension, without consideration of alternatives, can leave the employer liable to claims for damages for stress and defamation.
- 4.8.4 Where possible, an employee should be given due warning of the meeting at which they are to be suspended/required to continue working under alternative arrangements and invited to seek advice from, and bring, a representative. Such meetings will normally be conducted outside of pupil contact time. These procedures may not always be possible however, as by their very nature these decisions will need to be made quickly. At the suspension meeting the employee should be given as much information, including reasons and details of the subsequent procedures, as is consistent with not interfering with an investigation and as is allowed by the Police/Social Care where appropriate.
- 4.8.5 Where an employee is suspended or undertaking 'other duties', this should always be on full normal pay (sick pay where the employee has a period of certificated sickness). Details of suspension or alternative work arrangements should be confirmed in writing. It should be made clear that the suspension is a neutral act and not a disciplinary sanction.
- 4.8.6 Where the Chair of Governors suspends or arranges alternative work arrangements with the headteacher, the governing body and the Authority should be informed.

4.9 *Disciplinary Action by the School*

- 4.9.1 As referred to throughout this document, there is a distinction to be drawn between the considerations made by Social Care, the Police and the employer – the education establishment.
- 4.9.2 In some cases it will be necessary for the school to conduct an investigation under its own internal disciplinary procedures. Details of this procedure are not reproduced here and should be referred to as necessary. This may be when the Police/Social Care have completed their processes and have decided not to take the matter further in the most serious cases [Reference Section Appendix D] or where a referral was not necessary but misconduct or inappropriate conduct may have occurred [Reference Section 4.5.2]. Often, this will not result in any formal action, but it is important that the matter is thoroughly investigated, recorded and, where appropriate, the member of staff given management advice. Where there is a case to answer, the full course of the disciplinary procedure should be followed, and the employee dismissed where this is the appropriate response.

The use of Compromise Agreements in concluding employment is not appropriate in child protection related cases.

- 4.9.3 All investigations into allegations must be concluded and the outcome recorded, even if the employee does not co-operate or resigns.
- 4.9.4 Advice should be sought from the Essex Safeguarding Service and HR advisers as appropriate.
- 4.9.5 Although the details of any disciplinary action and/or sanction cannot be disclosed to parents or other parties, it is appropriate to inform the relevant child's parents that the matter has been dealt with in accordance with the adopted policy and relevant procedures.

4.10 Follow-up Action

- 4.10.1 In circumstances where an employee is dismissed (and where an employee leaves and would have otherwise been dismissed), employers must refer the matter to the Secretary of State for possible inclusion on the DfES List 99 list of excluded employees. Referral should also be made to the HR Schools Team for consideration for inclusion on The List.
- 4.10.2 Schools are obliged to make reference to any current disciplinary sanctions and to the fact of, and reasons for, a dismissal where appropriate, when writing references. Schools should also be frank when writing references in respect of staff who have resigned pending the outcome of any disciplinary investigation. This can be an area of concern and advice from personnel/legal advisers should be sought. In general terms however, provided the employee was aware of the allegations, they had been discussed with him/her and the reference is factually accurate (this should include a report of the employee's response to the allegations), the school should not be vulnerable. It is in everyone's interests, not least children's that schools work together to prevent abuse.
- 4.10.3 The school may find it helpful, at the conclusion of a child protection case, to consider whether there are any general matters arising from it which might warrant a review of local procedures and key issues should be brought to the attention of the ESS for more general consideration. Any training needs of staff might well be considered as part of any such reviews. Care should be taken to maintain the confidentiality required in relation to particular cases.

5. SUPPORT FOR INVOLVED PARTIES

- 5.1 Employers have a legal 'duty of care' for the safety, well-being and health of their staff and it is important that employees are kept informed, as far as possible, about any relevant progress in the case and about general school issues.
- 5.2 The head of establishment should be responsible for discussing the child protection procedure/disciplinary issues with the member of staff, including progress on the investigation and possible outcomes. Another person should be assigned to act as the link on general school issues where the employee is working away from school or suspended. The link should not be the designated child protection person in school.

- 5.3 Ideally the link person for the employee will be the deputy headteacher or other senior manager, although where the employee is close to another member of staff and they are comfortable to act as the link, this arrangement would be acceptable. Where the case relates to the headteacher or deputy headteacher and another senior manager is not deemed to be an appropriate link person, a governor may be assigned to act as the contact between the employee and the school on general issues. The link person should avoid discussing the allegations or details of the case with the employee. Where the headteacher is suspended or assigned to other duties/location, a senior officer from the Authority will be allocated to support the headteacher through the provision of timely and relevant information.
- 5.4 The school should also distribute school mail and developmental materials to the employee's home address and arrange where practicable for him/her to be kept abreast of events within school. In many cases it will be appropriate for the member of staff to continue to attend external training courses and non-pupil days.
- 5.5 Clearly, all of these arrangements need to be handled sensitively and made in consultation with the employee and in accordance with the particulars of the case.
- 5.6 Employees should be encouraged to seek advice from their Trade Union/Professional Association for personal support. Non-union members may wish to contact the Citizens Advice Bureau or seek expert legal advice. Employees may also be referred to other sources of support, e.g. stress counsellor.
- 5.7 The HR Schools Team will assist where possible in liaising with trade unions and professional associations. However, as agents of the management of the school, personnel staff cannot act as advisers to individual employees.
- 5.8 Inevitably, there will be some occasions where allegations are made which are later found, through the due processes of Police/internal investigation to be unfounded or less serious than initially assessed. There will also be occasions when the employee remains in school during, or returns to work following the process, and may end up with a disciplinary sanction. Whatever the circumstances, but particularly where the member of staff has been removed from his/her normal post during the enquiry, arrangements should be made to support the employee's return to normal duties. Where the absence has been for some time, this may involve a gradual re-introduction to school.
- 5.9 Unfounded allegations are often not the result of maliciousness, but more often of misunderstanding or misperception and pupils and their parents may find it difficult to accept the outcome of the child protection/disciplinary process. Heads of establishment will need to manage those reactions and support the pupil as well as protecting the employee.
- 5.10 When an allegation is made against any member of staff, it may also have an effect on members of staff other than the accused. Staff may have witnessed or reported the issue, be close to the employee concerned, or generally feel concerned about the professional ramifications for others, or themselves, in very serious cases. As mentioned previously, training in child protection matters is essential in ensuring that all staff understand and appreciate the steps that will be taken if allegations are made. This will better enable staff to feel confident and secure, and to fully understand, that

any actions, for example a referral to Social Care or suspension, are necessary and do not represent an exaggerated or overly-judgmental response. [See also Section 1.4]

- 5.11 Equally as important is the need to consider the support that may be required for the child or children making the allegations and their parents. This is not however the focus of this guidance and advice should be sought from the Essex Safeguarding Service.

6. SHARING INFORMATION

Managers should seek advice from the Essex Safeguarding Service.

- 6.1 Child protection issues, in common with most issues involving children, are extremely sensitive and can cause feelings to run high among all parties involved. A very careful balance needs to be struck between being open with parents and other staff and not sharing too much information. Information should be restricted to those who have a need to know in order to:
- protect children
 - facilitate enquiries
 - manage disciplinary/complains aspects
- 6.2 In many cases parents and others will have information from unofficial sources e.g. witnesses to incidents will talk about them, parents will share information, staff will be aware of things happening etc. This often makes it difficult to say nothing and it is rarely appropriate to try to explain away an employee's absence, for example by saying they are off sick.
- 6.3 It would not be appropriate to describe a standard course of action that should be taken, because each case will need to be assessed on its own circumstances.
- 6.4 In general, however, schools will need to inform parents of alternative arrangements made for covering an absent employee, and it may be appropriate in some circumstances to inform parents of an employee's suspension. However, while it is inappropriate to share details of the allegations, any communication should make it clear that where an employee is on alternative work arrangements or suspended, this is a neutral act and is implemented to allow a full investigation to take place. Managers will need, in consultation with ESS, to make similar judgements in relation to what information to share with other staff and the press.
- 6.5 Pupils and parents involved in a case need to be kept informed of the procedural issues, in line with any advice/instruction from the Police/Social Care/the ESS where appropriate.
- 6.6 Senior, and sometimes other, staff may need to know the broad reason for a suspension/alternative work arrangements. Likewise, governors may need to be informed of the fact of a suspension, but details should not be disclosed to avoid prejudicing those that may have to hear a disciplinary case.

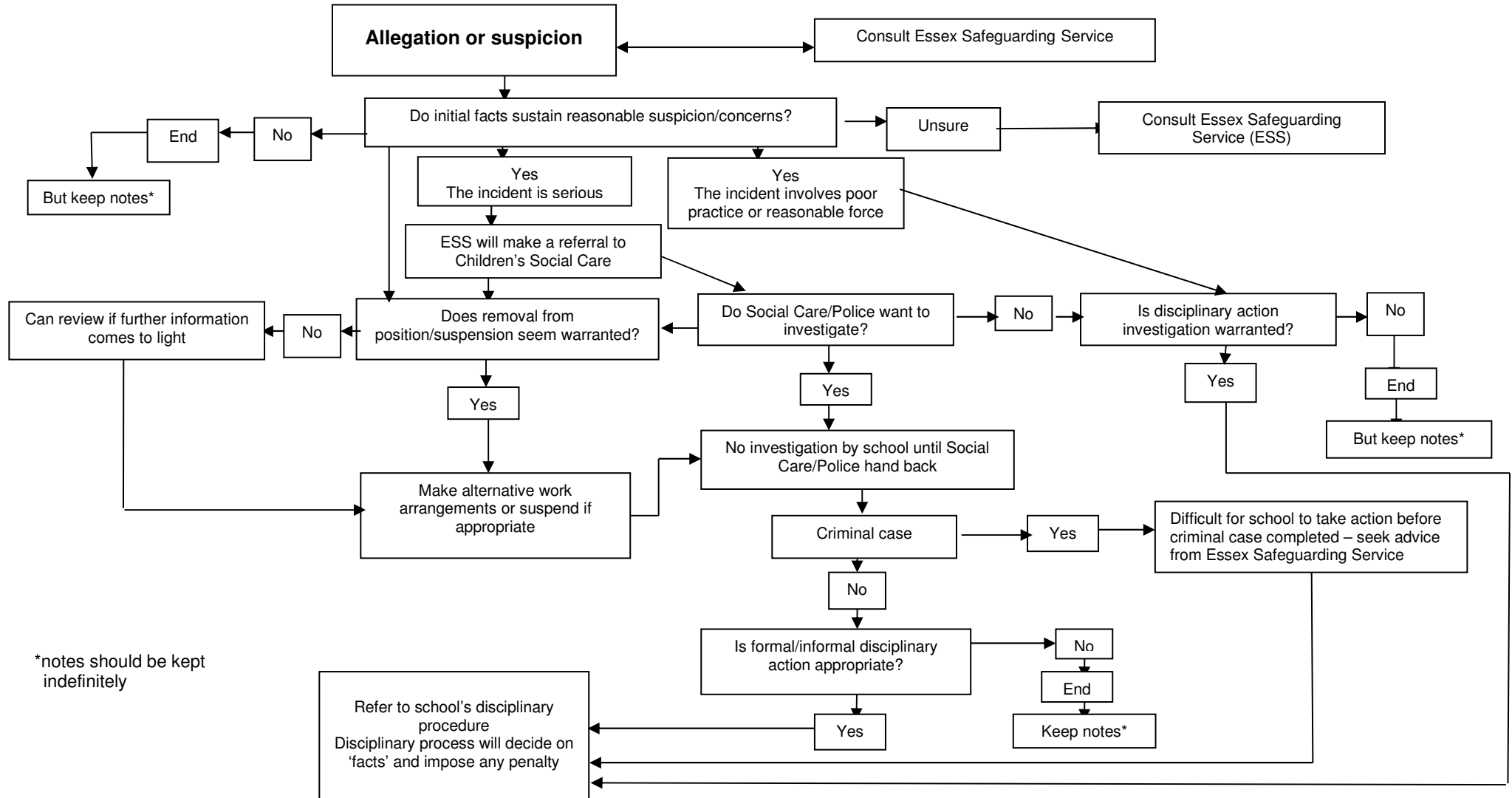
- 6.7 Where the Press are pursuing an issue, statements and interviews should not be given without first seeking advice from the ESS who will liaise with the lead agency – normally Social Care (Police if it is a criminal investigation) – to develop a media strategy where necessary. It may be agreed in certain circumstances to issue a statement to quell gossip and speculation and it will normally suffice to say that the matter is being properly and formally dealt with in accordance with adopted policy and relevant procedures.
- 6.8 Finally, other school staff and governors should be advised not to discuss matters relating to the case with parents or other parties, but should instead refer all enquiries to the head of establishment/Chair of Governors.

7. RECORDS

- 7.1 Documents related to child protection matters should be retained **at least** until the individual has reached normal retirement age or 10 years after allegation (if longer). in a secure place by the school.
- 7.2 Papers relating to the disciplinary process should be retained on the employee's personal and confidential file in accordance with the school's disciplinary procedures.
- 7.3 If an employee is dismissed, or resigns before a disciplinary process is completed, he/she should be informed about the employer's statutory duty to report the case to the Department for Education and Skills Teacher's Misconduct Section, for consideration of their debarring from further employment.
- 7.4 Where a pupil has made an allegation, a copy of the statement or record should be kept on that section of the pupil's personal file that is not open to disclosure, together with a written record of the outcome of the investigation (not including details of the employee disciplinary process).
- 7.5 If there are related criminal or civil proceedings, records may be subject to disclosure and therefore no assurance can be given of confidentiality.
- 7.6 The Essex Safeguarding Service maintains records of all allegations that have been made, the process which was followed and the outcome. These records include personal information about the child(ren) and adult(s) involved. The ESS provides a leaflet for establishments to give to individuals explaining these records in the context of the Data Protection Act.

APPENDIX A

GUIDELINE FRAMEWORK FOR HEADTEACHERS/GOVERNORS FOLLOWING RECEIPT (OR SUSPICION) OF ILL-TREATMENT OF PUPILS



APPENDIX B

ESTABLISHING INITIAL FACTS

Context

The context in which an incident occurs is crucial to understanding the allegation and the definition to be ascribed to it. In order to differentiate between incidents which are of a child protection nature and those which may more properly be dealt with as conduct or competency issues, or to identify those allegations which are false or erroneous, the allegation should be considered, in consultation with the Essex Safeguarding Service, in the light of the following:

- normal duties (e.g. pupil or teacher away from expected location)
- environment (e.g. special school, school trip)
- standards applied to the member of staff, with regard to the activity and circumstances in which the alleged incident occurred (e.g. job description, code of conduct, local practice guidance)
- conduct of the member of staff (e.g. previous concerns, present conduct, disciplinary record)
- conduct of the child (e.g. both characteristic and uncharacteristic behaviour, previous allegations made, previous incidents)
- child, parent, employee, witness views of incident

Listening to children

NB. The following are general principles as set out in the Joint Employers/Union advice Bulletin 647.

Children who report that a member of staff has abused them must be listened to and heard, whatever form their attempts to communicate their worries take.

- The child should be listened to but not interviewed or asked to repeat the account
- The child should not be interrupted when recalling significant events.
- Care should be taken not to make assumptions about or to interpret what the child is saying.
- On no account must suggestions be made to the child.
- Statements must not be taken from the child but their account, in their own words, should be recorded.

Members of staff must not promise confidentiality to a pupil who makes an allegation. Clearly, consideration will need to be given to the age and understanding of the child, the perceived and assessed level of risk to him/her and others. While acknowledging the need to create an environment conducive to speaking freely, the member of staff should make it clear that he/she will need to pass on the information to ensure the protection of children in accordance with S.E.T. procedures. Within this context the child should be assured that the matter will be disclosed only to those people who need to know about it. The support needs of the child must be considered and met, utilising resources within and/or beyond the school as necessary.

General

- Only brief and open questions must be asked at this initial stage.

For example

Can you tell me about lesson 1 today?

Do you recall anything happening in class last Friday?

The following scenarios may help.

A child complains to the headteacher that Mrs X pushed him over. The headteacher would ask the child simply “what happened?”. This should be enough at this stage to get an idea of the child’s version of events. It would then be necessary to speak to the member of staff against whom the allegation is made. Again, it should suffice to ask the teacher what happened, giving only such information as is necessary to set the context (e.g. the lesson time, the class).

A parent telephones to say that their child came home the previous evening and said that Mrs Y, a teaching assistant, had hit him on the head during a lesson. The headteacher should ask the parent for further details of what the child said. The headteacher then asks the teaching assistant if anything happened in the lesson, but the teaching assistant says nothing happened. It would then be necessary to ask the teacher (or other adult witness) if anything happened.

NB

- where there are adult witnesses, these should be the primary source of information at this stage (i.e. avoid talking to children where possible [See Section 4.3])

APPENDIX C

STRATEGY MEETING

The format and running order of each meeting will differ slightly according to the nature and source of the allegation and the referral. In general terms however, the following stages will be covered.

- A member of Social Care will chair the meeting, which will be minuted.
- The meeting will usually begin with the Social Care team outlining the information they have on the case.
- Other agencies will then be invited to provide any information they have about the incident/allegation. This stage will usually start with the source of the referral e.g. Police or the School.
- Appropriate agencies will then be invited to share information about the child(ren) and the member of staff involved.
- Where appropriate, a discussion may take place regarding the member of staff's continued presence in school. The Strategy Meeting may make a recommendation to the school/personnel representative, but the decision remains the school's.
- Finally, next steps will be agreed.
- Social Care and the Police may not consider that they need to investigate the matter, although they may still make a recommendation that the school should investigate/issue advice/undertake training for staff.
- Social Care and/or the Police may decide that they wish to investigate the matter in which case the school will be informed that they must take no further action at present. It is likely that one (or more) further Strategy Meetings will be called following Social Care enquiries to report on progress/findings.
- A decision is usually made about who will make contact with the parents to inform them of the next step or that the matter has been handed back to the school.

Refer also to SET Child Protection Procedures mauve book Section 12.4.34-12.4.43.

STRATEGY MEETING – Checklist

Essex Safeguarding Service

Checklist for Strategy meetings in relation to allegations against adults working in an educational setting

The purpose of a strategy meeting:

- Share available information;
- Decide whether s. 47 enquiries be initiated or continued if they have already begun;
- Plan how enquiries should be handled, including the need for medical treatment and by whom;
- Agree what action is needed immediately to safeguard the child, and/ or provide interim services and support; *and*
- Determine what information about the strategy discussion will be shared with the family (or alleged perpetrator), unless such information sharing may place a child at risk of significant harm or jeopardise police investigations into any alleged offence(s).

When attending a strategy discussion it is important that information is readily available to the representatives of the agencies attending. This checklist will enable you to come to the meeting with all the information that will be needed.

Information about the complaint/concern/allegation

- Any letters
- Accounts of discussions/ written records /disclosure
- A chronology of events (where appropriate)
- Identification and details of any witnesses

Information about the child(ren)

- School file/pupil record (attainment/SEN)
- Background information/history
- Childs details (ie dob / address
- Family Details (Parents names /address[es] siblings)

Information about the adult

- Personal File (including any disciplinary or capability information and details of pre-employment checks)
- Career profile
- History of any previous concerns/incidents
- Details of family situation if known (ie partner/children).

It is important to remember that you should attend with an open mind and be non-judgemental with regard to the incident or the people involved. It is vital that information is shared in an open, honest and professional manner.

STRATEGY MEETING – preparation/record sheet for schools

School

.....

Those present

.....

.....

Employee name

.....

Employee date of birth

.....

Employee position

.....

Child/children name

.....

Child/children date of birth

.....

Child/children address

.....

Alleged incident/allegation

.....

.....

.....

Any marks/injuries listed at the time?

.....

Any marks/injuries listed later?

.....

Witnesses

.....

.....

.....

Were relevant checks carried out on the employee?

.....

- Check ECC List

.....

- Check CRB/List 99

.....

Are HR aware of any previous issues?

.....

Police informed

.....

Social Care informed

.....

Parents' involvement

.....

Further action required or proposed

.....

APPENDIX D

CRIMINAL CASES

- 1 Social Care/the Police may decide, after they have conducted their investigations, that there is no case to answer in which case the matter will be handed back to the school to deal with under its own disciplinary procedures [See Section 4.9]. On some occasions however, a case may be forwarded to the Crown Prosecution Service (CPS) for a decision on whether or not a prosecution is warranted, and in a few cases criminal proceedings will follow.
- 2 Cases which are subject to a full investigation by the Police, and particularly those which result in a prosecution, present particular difficulties for schools, not least in the time these cases can take to pass through the courts. Moreover, the impact of such cases on the pupils and employee(s) involved and the wider school community cannot be underestimated.
- 3 Police Officers should be given every assistance with their enquiries but confidentiality about the enquiries should be maintained in the individual's interests. It would not normally be expected that police interviews would be undertaken on school premises, although this may sometimes be requested, and it would be expected that appointments are normally made for such interviews at reasonable times.
- 4 In most circumstances, it is not possible for the school to undertake its own investigation under internal disciplinary procedures until the end of the criminal proceedings, which can result in a member of staff being suspended for a considerable length of time. On the rare occasions where an internal disciplinary case may be considered prior to the outcome of criminal proceedings, no action must be taken without the express agreement of the Police and Social Care.
- 5 One of the reasons for an inability to proceed is that the employer will not usually be given access to Police statements until after the criminal case has been heard.
- 6 Once Police action and/or a criminal process has been completed, it will probably be still necessary for the school to take its own action under its own procedures. There is no direct relationship between the criminal law process and the employment law process, not least because of the different standards and tests which apply.
- 7 It is not automatically the case that an employee who is imprisoned is in breach of his/her contract. In most cases therefore it will be necessary for the school to conduct an investigation under its disciplinary procedures [See Section 9] and to formally end the contract of employment where appropriate.
- 8 In cases of imprisonment, consideration must be given to the length and nature of the sentence applied and a decision made on an individual basis, about whether it is reasonable to proceed with a disciplinary case in the employee's absence. In any case, the employee must be fully informed of the process; afforded every opportunity to make representations about the case and given the right of appeal where appropriate. Such cases are thankfully extremely rare, and advice should be sought on an individual basis.

USE OF POLICE EVIDENCE AND LINK WITH ACTION BY OTHER AGENCIES

- 1 Although it will generally not be possible for heads of establishment or HR officers to be present when the Police are taking witness statements, copies of such statements can be made available in some circumstances and used as evidence in an internal disciplinary process.
- 2 Wherever possible the Police and Social Care should obtain consent from individuals concerned to share statements and evidence they obtain with the school for disciplinary purpose.

- 3 Police and Social Care are required to assist the school by passing on information as appropriate. Requests for access by the school may need to be made in writing, clearly indicating the reasons the statements are required. It is unlikely that statements will be released prior to any court case, if the matter proceeds to this stage. Heads of establishment should seek assistance from Essex Safeguarding Service in obtaining copies of statements.
- 4 Where the Police decide not to charge a person, to issue a caution or the person is acquitted, they should pass all information to the school as soon as possible.
- 5 Employers will need to use their discretion in these matters, and may decide that it is appropriate to interview witnesses themselves as part of an internal disciplinary process. This is often appropriate in the case of adults, not least because the focus of the school's case may be slightly different from that of the Police. For example, the Police will be considering whether a criminal offence has been committed, whereas an education establishment may be looking at the issue of what is acceptable behaviour in the context of the employment.
- 5 The re-interviewing of children should however be avoided where at all possible, and only exceptionally should children be called as witnesses to give evidence personally at disciplinary hearings. Such actions should only be taken following the advice of Social Care/the Police.