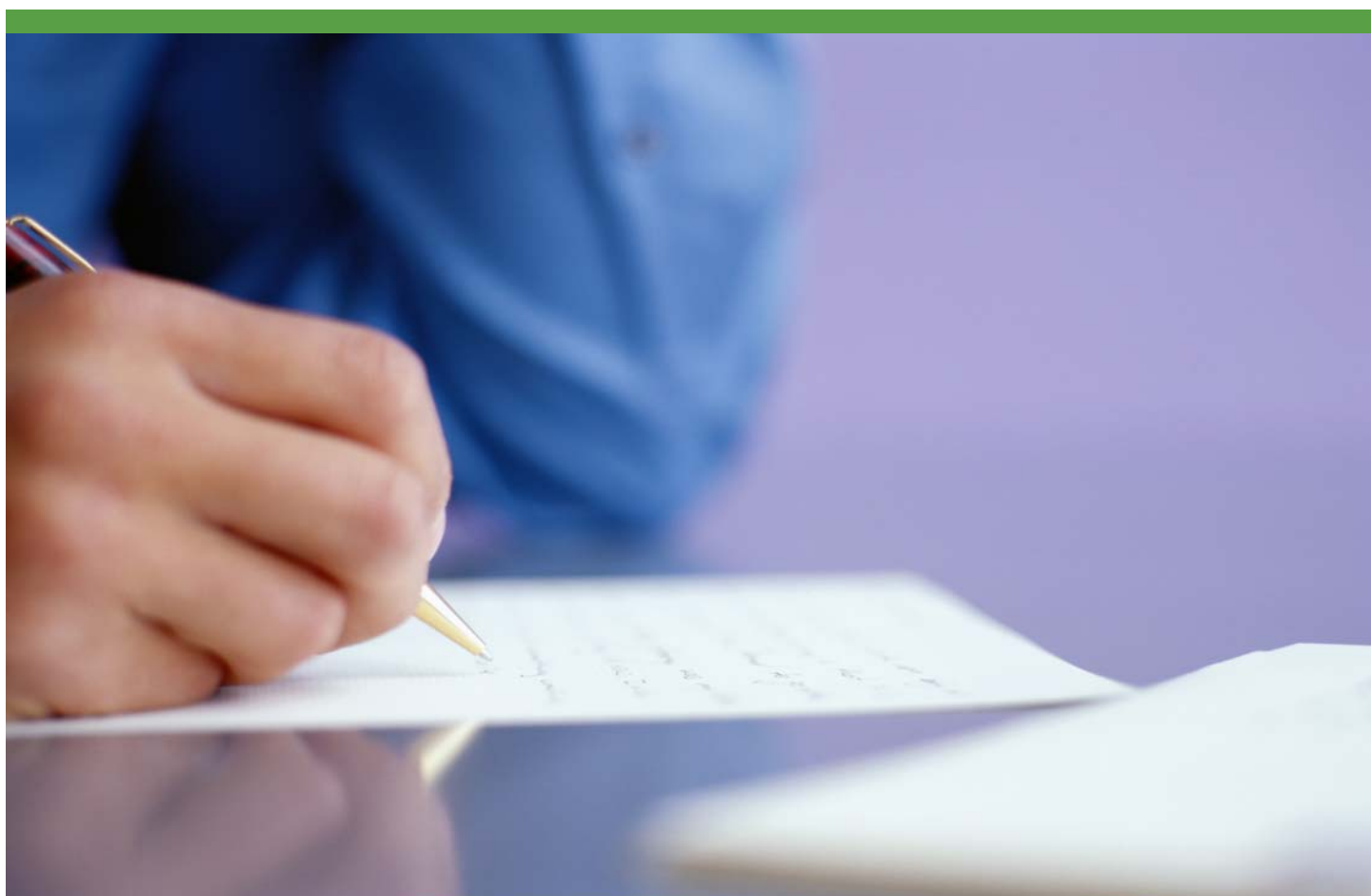


Managing allegations and concerns regarding staff in education settings



www.milton-keynes.gov.uk/schools

Date issued: October 2011

Review date: October 2014

Prepared by: Principal Education Welfare Officer

Approved by: Assistant Director, Education, Effectiveness and Participation

CONTENTS

1. Legal Context
2. Introduction
3. Roles and Responsibilities of schools and educational establishments
4. Milton Keynes Council and police roles and responsibilities
5. Principles
6. Safeguarding Environments
7. Initial Action by person to whom a concern or allegation is reported
8. Initial Action by the Headteacher/Chair of Governors/Senior Manager
9. Initial Considerations
10. Options
11. Allegations requiring immediate referral to the child protection agencies (police and children's social care)
12. Referral
13. Strategy Meeting
14. Member of staff's own children and out of school activities involving children
15. Suspension from work and alternative duties
16. Support for the Accused Member of Staff
17. Action during child protection/criminal investigations
18. Where criminal or child protection action are not required
 - a. No further action
 - b. Issue an informal warning and/or professional advice
 - c. Instigating an investigation under disciplinary procedures
19. Substantiated Allegations: Referral to the Independent Safeguarding Authority or Regulatory Body
20. Agency Staff and Volunteers
21. Resignations and 'Compromise Agreements'
22. Managing the Aftermath
23. Action in Respect of Unfounded or Malicious Allegations
24. Record Keeping
25. Definitions of the outcomes of investigations.
26. Useful Links
27. Key Contacts

SAFEGUARDING CHILDREN AND SUPPORTING STAFF

THE MANAGEMENT OF ALLEGATIONS AND CONCERNS REGARDING STAFF IN EDUCATION SETTINGS

1. Legal Context

1.1 All organisations which provide services for children, or provide staff or volunteers to work with or care for children, should have and operate a procedure for handling allegations consistent with guidance in Chapter 13 of Working Together to Safeguard Children 2010: Allegations Against Staff, Carers and Volunteers.

http://www.proceduresonline.com/mkscb/chapters/p_alleg_staff.html

1.2 For the purpose of these procedures a 'staff member' is a person whose work brings them into contact with children in an education setting. It therefore applies to all staff, including contracted staff and individuals working in a voluntary capacity on or off school premises.

1.3 The framework for managing cases applies to a wider range of allegations than those in which there is reasonable cause to believe a child is suffering, or is likely to suffer, significant harm. It also caters for cases of allegations that might indicate that the alleged perpetrator is unsuitable to continue to work with children in his or her present position, or in any capacity. The framework should be used in respect of all cases in which it is alleged that a person who works with children has:

- behaved in a way that has harmed, or may have harmed, a child
- possibly committed a criminal offence against, or related to, a child; or
- behaved towards a child in a way that indicates s/he is unsuitable to work with children.

1.4 There may be up to three strands in the consideration of an allegation:

- a police investigation of a possible criminal offence
- enquiries and assessment by children's social care about whether a child is in need of protection or in need of services
- consideration by an employer of disciplinary action in respect of the individual.

2. Introduction

2.1 Throughout their day to day contact with children, staff in education have a crucial role to play in noticing indicators of possible abuse or neglect and in referring concerns to the Designated Person for Child Protection. Governing bodies have a duty under S175 of the Education Act 2002 to ensure that sufficient measures are in place to safeguard the children and young people in their establishment. In general, the school will contribute important information about the child's needs, level of understanding and the most effective means of communication, as well as providing the means by which many child protection referrals are made.

2.2 Given their contact however, staff can also be vulnerable to allegations of abuse. It is acknowledged that these may be found to be untrue. It should be remembered however, that children and young people sometimes make allegations to draw attention to problems experienced elsewhere in their lives or because they have misinterpreted an incident. However, there are occasions when allegations are substantiated.

2.3 All staff working in education can contribute to child protection by helping to create a safe environment for children and young people. Children can be helped to understand what acceptable behaviour is, how they can stay safe from harm and how to speak up if they have worries.

2.4 This means that staff must also be aware of behaviour that is acceptable and behaviour that might make them vulnerable. Schools and other educational establishments are advised to produce guidelines for staff working with children and young people, to help minimise risk for all concerned. By doing so, employers make an essential contribution to their responsibilities both in respect of safeguarding children and in their duty of care to staff. The guidelines must be incorporated into the induction process for all new members of staff. Existing staff should be reminded of their importance each academic year as part of the training and development process.

2.5 Any instance of a pupil being abused by a member of staff is particularly serious. Equally, for an innocent person to be subject to what may be a lengthy period of investigation and possibly suspension, coupled with the threat of possible arrest, is a serious ordeal. Such experience can result in long term damage to a person's health and career. Any allegation against staff should therefore be dealt with fairness and efficiency and without delay.

2.6 All efforts should be made to bring matters to a clear conclusion to safeguard both children and staff.

3. Roles and Responsibilities of schools and other educational establishments

3.1 **Headteacher** – The Head of the school is responsible for dealing with allegations against members of staff. In his/her absence, this role should be undertaken by his/her deputy. In general, the Headteacher is responsible for creating a safe environment in the school and is responsible for appointing a Designated Person for Child Protection.

3.2 **Designated Person for Child Protection** – This is a senior member of staff within a school who has responsibility for coordinating action on general child protection issues. Other than where the Headteacher also holds this role, the Designated Person should not take responsibility for managing allegations against staff.

3.3 **The Governing Body** – Governors are responsible for ensuring that there are sufficient measures in place to safeguard the children in their establishment. A **Nominated Governor** should be appointed by the Governing Body and good practice suggests that this should not be the Headteacher or a staff appointed governor. (This role and that of 4.2 above should not be held by the same person).

3.4 **The Nominated Governor** liaises with the Head and Designated Person; ensures that an appropriate child protection policy and procedures are in place (which include allegations against staff); and presents an annual report on the child protection activity within the establishment to the Governing Body.

3.5 Where an allegation is made against the Headteacher, the **Headteacher** or other person receiving the allegation **must immediately inform the Chair or Vice Chair of Governors**.

3.6 Where the allegation is made against the Headteacher, the Chair or Vice **Chair** takes responsibility for managing the case and for liaising with the Named Senior Manager/ Local Authority Designated Officer (LADO) and investigative agencies. The Chair or Vice Chair can also be the Nominated Governor.

3.7 In the case of community and voluntary controlled schools, where the allegation is against the Headteacher, the Chair or Vice Chair should notify the Director of Children's Services (DCS) or his/her representative following a referral to the Named Senior Manager/LADO.

3.8 The Governor who takes responsibility for managing an allegation against the Headteacher should not, at a later stage, form part of any disciplinary or appeal committee hearing on the same matter.

3.9 **Named Senior Manager for other educational establishments** – The senior person responsible for dealing with allegations against staff within their establishment (e.g. FE colleges).

3.10 For the purposes of brevity, references to Headteacher in this document, will also apply to the Senior Manager for other educational establishments.

4. **Milton Keynes Council and police roles and responsibilities**

4.1 Local Authorities must appoint a **Local Authority Designated Officer (LADO)** who will:

- Be involved in the management and oversight of individual cases
- Provide advice and guidance to employers and voluntary organisations
- Liaise with the Police and other agencies
- Monitor the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process
- Maintain records relating to allegations against staff
- Liaise directly with the Named Senior Manager. The LADO can be contacted on the following number **01908 254300**.

4.2 The **Local Authority Named Senior Manager** will:

- Offer advice, guidance and support to Headteachers and their deputies
- Liaise with the Local Authority Designated Officer
- Take part in inter-agency Strategy Meetings
- Report on the outcomes of internal disciplinary procedures.

4.3 **Police** have a duty to investigate criminal offences committed against children. Such concerns involving the family, other carers or staff working with children, should be handled by the Police CAIU (Child Abuse Investigation Unit). A senior officer will oversee cases involving staff and be responsible for ensuring effective liaison with other agencies.

4.4 **Children's Social Care** have a duty to safeguard and promote the welfare of children in Milton Keynes who are in need, and to make enquiries if they have reason to suspect a child is suffering or likely to suffer significant harm. There must be a senior officer who has oversight of cases involving professionals and ensuring effective liaison with other agencies.

4.5 The **Human Resources Adviser/HR Provider** will offer advice and support to Headteachers and Governors on issues related to employment i.e. recruitment, retention and disciplinary matters. They also have a role in providing investigative agencies with basic personnel detail in cases of allegations against staff.

5. **Principles**

5.1 The protection of pupils from abuse is the responsibility of all staff, and Headteachers and Designated Persons should ensure that staff and pupils are aware of how to report concerns of abuse and neglect.

5.2 Allegations or concerns made by or on behalf of a child should always be taken seriously and referred to the investigating agencies, as appropriate.

5.3 Investigations should be conducted in a way that recognises the vulnerability of both children and staff. Investigations must be dealt with quickly, fairly and impartially.

6. Safeguarding Environments - Reducing the Risk

6.1 Educational establishments and services can be proactive in reducing the risk of allegations taking place and in reducing the vulnerability of staff by:

- Developing a safeguarding ethos in which pupils and staff can express their concerns; staff are encouraged to offer constructive challenge; and where whistle-blowing procedures can be engaged without fear. This means that safeguarding policies and procedures are accessible to all and there are means for communication and access to skilled advice.
- Adopting safe recruitment and termination of employment practices.
- Ensuring that all staff receive appropriate training in child protection, covering signs/symptoms and referral procedures. This can be provided through whole school Child Protection training, which is required to be updated on a three yearly basis. In addition named staff are required to undertake Designated Teacher training that examines responsibility for Child Protection issues in more depth. For information about available safeguarding training follow link – http://www.milton-keynes.gov.uk/education-welfare/documents/Safeguarding_Training_Info.doc
- Ensuring that staff understand what is safe practice and what is not. In particular, staff must be aware of behaviours that are likely to bring about criminal, child protection or disciplinary action. All staff therefore, should be provided with clear and relevant codes of conduct – wherever possible tailored to the specific tasks they undertake.
- Ensuring that vulnerabilities expressed by staff are taken seriously and responded to at the earliest stage.
- Conducting risk assessments following allegations to reduce the likelihood of repetition.

7. Initial action by person to whom a concern or allegation is reported

7.1 Concerns or allegations may be brought to the attention of a member of staff in various ways. A child might make a disclosure directly about another member of staff; a parent or other adult may report a concern about what they say they have seen or have been told by a child; or the member of staff might observe an event or behaviour that causes them concern.

7.2 Listening to a child/young person making an allegation

Essential action for the person receiving the concern:

- Listen carefully to the child.
- Where necessary, only seek to gain clarification of what is being implied or alleged.
- Do not investigate any matter that may require child protection or criminal investigations.
- Avoid asking leading questions.
- Avoid interrupting a child when he/she is recalling significant events.
- Avoid making assumptions about what the child has said, or by suggesting alternative explanations for their concern.

7.3 Confidentiality

Staff should not promise total confidentiality to pupils/adults who make allegations. They should inform them that this information will only be given to those who need to know. If possible, identify who these people are likely to be. Keep an open mind and do not allow preconceptions about the child or member of staff to influence your actions.

7.4 Immediate Support

Reassure the child or adult that their allegation will be taken seriously and explain that you will inform the Headteacher. If approached by the child, ask them where they want to wait and with whom they would like to be with, whilst you inform the Headteacher. Ensure that the child is separated from the person being accused, without informing anyone else of the reason.

7.5 Recording

Record all the information – including times, place, those present and what was said. Where a child has disclosed a concern, the child's own words should be noted. Sign and date the record. Any subsequent action must also be recorded.

7.6 Reporting

Report the matter to the Headteacher immediately or if unavailable, their Deputy. If the concern/allegation is about the Headteacher, report the matter to the Chair of Governors or Deputy Chair. Provide them with a written report as soon as possible, but do not let this delay your verbal reporting. If unable to contact any of these people, consult the Named Senior Manager or LADO.

7.7 The recipient of an allegation must not unilaterally determine its validity, and failure to report it in accordance with procedures is a potential disciplinary matter.

8. **Initial Action by the Headteacher /Chair of Governors /Senior Manager**

8.1 Record details provided, including times, dates, location of incident, and names of any potential witnesses. Obtain a written report from the member of staff who received the concern.

8.2 Further clarification from the child may be sought if necessary, but this should be restricted to confirming that an allegation has been made, what it is, where it was alleged to have occurred and whom it concerns.

8.3 **No attempt should be made to interview the child, the member of staff concerned, or potential witnesses.** Attempts to establish the truth, however well intentioned, can seriously contaminate evidence for any subsequent investigation.

8.4 Record all decisions with their justification, even when a decision to take no further action is made.

9. **Initial Considerations**

9.1 Where an allegation has been made even where there is doubt about whether it justifies further action, consultation **must** take place between the Headteacher and the Named Senior Manager or LADO. Reference to the criteria under 'Context' at the beginning of this document will be helpful.

9.2 All allegations must be recorded clearly and accurately. Where a Strategy Meeting is required copies of documents relating to the incident and referral details must be forwarded to the Referral and Assessment Team (RAAT) using the multi-agency referral form (MARF).

9.3 Only those cases which are trivial or demonstrably false at the outset can be dealt with internally by the school/establishment. Even in these cases, it would be advisable to consult the Named Senior Manager about support for action plans to address any behavioural problems that may require physical intervention and to minimise further risk to pupils and/or staff.

9.4 Details of all discussions with the Named Senior Manager should be recorded, including any decisions made, along with their justification. The Named Senior Manager will liaise with the LADO to ensure accurate record keeping.

- 9.5 The Named Senior Manager may require further information, which could necessitate asking minimal questions, if these had not already been established such as:
- Was the pupil in school on that day?
 - Could the pupil have had contact with the member of staff?
 - Are there any potential witnesses?
- 9.6 Remember that such communications should be limited to achieving clarification and will not amount to an interview with any party.
- 9.7 The Headteacher and the Named Senior Manager, with guidance from the LADO, must consider the allegation and determine the appropriate way forward.
- 9.8 Except in cases where a strategy discussion is needed or police or local authority's social care services need to be involved, the Headteacher should inform the accused person about the allegation as soon as possible after consulting the Named Senior Manager. He or she should provide them with as much information as possible at the time.
- 9.9 Where a strategy discussion is required, or police or local authority's social care services need to be involved, the Headteacher should first consult with those agencies and agree what information can be disclosed to the accused person. Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the school or setting until the allegation or concern is resolved.
- 9.10 If the allegation is not demonstrably false or unfounded, and there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion should be convened in accordance with paragraph 5.56 of *Working Together to Safeguard Children*. If the allegation is about physical contact, the strategy discussion should take account of the fact that teachers and other school/settings' staff are entitled to use reasonable force to control or restrain pupils in certain circumstances, including dealing with disruptive behaviour. It is the responsibility of the LADO to determine whether a strategy meeting is required and to guide that meeting in the interpretation of the guidance and assessment of risk.

10. Options

- 10.1 Consultation with the Named Senior Manager/LADO will help to decide which of the following actions is appropriate:
- (a) An immediate referral to the joint agencies (police and children's social care) under local Child Protection Procedures.
 - (b) Further local enquiries to be made to gather more information (see 8.2 above).
 - (c) The allegation may have been prompted by inappropriate behaviour by the member of staff but does not amount to a child protection concern. In this case, a meeting may be required by the LADO and local disciplinary procedures might follow. The following link may help with defining inappropriate behaviour
<http://www.miltonkeynes.gov.uk/education-welfare/documents/FinalGuidanceforSaferWorkin1%2Epdf>
 - (d) The allegation is apparently without foundation. This situation might arise out of misunderstanding, maliciousness or possibly abuse occurring elsewhere in the child's life. The former two positions require action on the part of the school to minimise further risk to staff and where appropriate, address the pupil's behaviour. The latter will require further exploration by investigative agencies.

11. Allegations requiring immediate referral to the child protection agencies (police and children's social care)

- 11.1 Where a pupil has suffered, is suffering, or is likely to suffer significant harm, Children's Social Care have a duty to make enquiries in order to protect the child. The harm may be of a physical, sexual, or emotional nature, or as a result of neglect.
- 11.2 Where the conduct of a member of staff is such that it compromises the safety or wellbeing of a child, seek clarification on appropriate action from your Named Senior Manager or the LADO.
- 11.3 Where it is alleged that a criminal offence has been committed against a pupil, the police will be required to make any necessary enquiries. Any physical assault (including threat of) may constitute a criminal offence and consequently the threshold of significant harm does not always need to be met.

12. Referral

- 12.1 Where the Headteacher and the Named Senior Manager decide that the allegation needs to be referred as a child protection matter, the Named Senior Manager should ensure that this is done. A telephone referral should be made to Children's Social Care and confirmed in writing, by way of a MARF (Multi-agency referral form) immediately.
- 12.2 Children's Social Care should acknowledge the written referral within one working day of receipt. They should be contacted if an acknowledgement has not been received.
- 12.3 Any internal disciplinary investigation should be held in abeyance pending the outcome of police and Children's Social Care investigations. A decision will be made about the timing of any investigation at the Strategy Meeting or in discussion with the Named Senior Manager or the LADO.

13. Strategy Meeting

- 13.1 A Strategy Meeting should be arranged within two working days of the receipt of the allegation or concern, with core membership consisting of:
- Local Authority Designated Officer (LADO) to chair the meeting
 - Relevant social worker and her/his manager
 - Police CAIU
 - Named Senior Manager
 - Headteacher/Nominated Senior Manager of the organisation of the staff member concerned
 - Chair of Governors where the allegation is against the Headteacher.
- 13.2 The following should be invited as appropriate:
- Human Resources representatives
 - Consultant paediatrician if sexual abuse alleged
 - Lead/named/designated professional for child protection for the agency in question
 - A representative of the other local authority if the child is in care and is placed in Milton Keynes, or if the alleged perpetrator is resident in the area of the other LA.
 - Complaints officer if the concern has arisen from a complaint or a complaint investigation is in progress
 - A representative of the legal department
 - A representative from the employing agency.
- 13.3 Where the Headteacher, Chair or representative of an agency is implicated through an accusation or collusion or failure to respond to previous complaints, it is inappropriate for her/him to attend the strategy meeting.

13.4 The Strategy Meeting (with a dedicated note taker) must:

- Review any previous allegations made against the staff member and the establishment
- Decide whether there should be a section 47 (child protection) investigation and/or an internal disciplinary investigation
- Consider the implications arising from the CAIU decision whether or not to investigate an allegation of crime
- Consider, if a section 47 enquiry is appropriate, whether a complex abuse investigation is applicable
- Scope and plan the section 47 enquiry
- Allocate tasks
- Set timescales
- Decide who to inform and how.

13.5 The meeting must also:

- Prioritise any emergency action needed to protect a child
- Ensure all children who may be affected directly or indirectly identified, considered and provided with support, including ex-pupils /residents if appropriate
- Consider (where relevant) which other local authorities should be informed
- Ensure the investigation is sufficiently independent
- Make arrangements to ensure the safety of any child known to the staff member outside of the workplace
- Make arrangements to inform the child's parents, as well as consider how to involve them in the investigation and provide support and information during enquiries
- Consider the safety of children after the enquiry
- Recommend to the employing agency or responsible authority any action required to protect the interests of children whilst enquiries are conducted, including staff transfer, suspension or removal (such action is the responsibility of the employing/responsible agency and is to be taken in the light of details of the individual case and in accordance with the employers disciplinary policy and procedures, having taken advice from its HR provider).
- Agree which manager within each agency will be responsible for co-ordinating the investigation
- Consider the need to interview other members of staff and ex-members of staff
- Consider the need for individual support for any members of staff, including those who are the subject of allegations (e.g. through local authority occupational health or employee welfare arrangements)
- Consider links to and impact on industrial relations, personnel issues, registration and complaints issues
- Consider use of any recording of video interviews for disciplinary purposes
- Consider the future of the establishment where it is considered that abuse has pervaded the whole staffing group with the involvement or collusion of managers
- Consider possible claims for compensation and alert insurers
- Consider notifying the chief executive/senior officer of the employing agency
- Identify the information to be shared with the alleged abuser
- Agree on management of any anticipated media interest
- Set a date for a further Strategy Meeting

13.6 The Strategy Meeting should set a review date within one month of the referral being received with a view to concluding the enquiry as soon as possible.

14. Member of staff's own children and out of school activities involving children

- 14.1 If an accused member of staff has children of their own, or it is known that they are involved in out of school activities that involve children, then consideration of risk to these children must also be given.
- 14.2 If these children reside outside of this authority, or the activities with children occur outside of this authority, then it is the responsibility of local investigative agencies to notify their counterparts in the other authorities concerned.
- 14.3 Where child protection concerns occur within the member of staff's own family, there may be implications for children in their place of work too. In these circumstances consult the Named Senior Manager/LADO.

15. Suspension from work and alternative duties

- 15.1 The decision whether to suspend the member of staff whilst investigations take place rests with the Headteacher and/or Governing Body. They should however, make an informed decision by seeking a recommendation from the Strategy Meeting.
- 15.2 Suspension should only be considered in a case where there is cause to suspect a child or other children at the school/setting to be at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal. However, a person should not be suspended automatically, or without careful thought being given to the particular circumstances of the case.
- 15.3 Schools/settings should also consider whether the result that would be achieved by suspension could be obtained by alternative arrangements. For example, redeployment so that the individual does not have direct contact with the child concerned, or by providing an assistant to be present when the individual has contact with children. This allows time for an informed decision regarding the suspension and possibly reduces the initial impact of the allegation. This will however, depend upon the nature of the allegation. Schools/settings should consider the potential permanent professional reputational damage to teachers that can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended.
- 15.4 The following criteria should be met in order to justify the suspension of a member of staff in education (the Headteacher and/or Governing Body should also ensure they refer to the School's/MKC's Disciplinary Procedure):
- Where a child or children is/are at risk of significant harm.
 - Where the allegations are so serious that dismissal for gross misconduct is possible.
 - Where the presence of an employee may hamper/inhibit an investigation.
- 15.5 Suspension may be considered at any stage of an investigation. It is a neutral act, not a disciplinary sanction and will be on full pay.
- 15.6 Paid leave of absence, mutual agreement to refrain from work, alternative duties/locations or removal from direct contact with pupils may be used as an alternative to suspension. These alternatives can be used if they achieve a sufficient level of safeguarding during an investigation.

Meeting with the employee to consider suspension

- 15.7 Where suspension is considered, the Headteacher should arrange a meeting with the member of staff. The meeting must be conducted in accordance with the employer's disciplinary policy and procedures.

- 15.8 Prior to the meeting, the Headteacher should advise the member of staff that he/she may be accompanied by a trade union /professional association representative or work colleague for support. The member of staff should make every effort to secure representation if required. If it is not possible to identify a short term measure, depending on the severity of the allegation, it may be necessary to proceed with the suspension meeting without representation.
- 15.9 At the outset of the meeting, the Headteacher should inform the member of staff that an allegation has been made and at the conclusion of the interview there may be a decision to suspend, whilst further investigation takes place.
- 15.10 The member of staff should also be told:
- That this meeting is not a formal disciplinary hearing or examination of the evidence, but an opportunity to make representations after the reasons for any proposed suspension has been given.
 - That he/she may have a brief adjournment prior to giving a response.
 - He/she should be given access to welfare counselling or medical advice where this is provided by the employer.
- 15.11 The member of staff should be provided with as much information as is consistent with not interfering with an investigation about the allegation. Advice should be sought from the investigating authorities, the Human Resources Adviser and LADO in advance of this meeting.

Immediate action following suspension

- 15.12 Suspension must be confirmed in writing to the employee within any timescales outlined within the disciplinary procedure. This notification should include, the date from which the suspension is effective, the reasons for the suspension, details of the disciplinary procedure and copies of any relevant documents, plus a statement that full pay will be maintained during the period of suspension.
- 15.13 The Headteacher should inform the Chair of Governors and the Milton Keynes Council, that a member of staff has been suspended. The Chair of Governors should inform Milton Keynes Council if the Headteacher has been suspended (this may be done on both occasions via the Human Resources Adviser).
- 15.14 The Headteacher should also ensure the Chair of Governors is informed that a member of staff has been suspended but should ensure that they are given only minimum information to avoid prejudicing their impartiality in any subsequent hearing or appeal in disciplinary proceedings.

Persons to be informed of the suspension

- 15.15 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 local authority children's social care services need to be involved, the Headteacher should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents. They 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. *(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)*
- 15.16 In cases where a child may have suffered significant harm, or there may be a criminal prosecution, council social care services should consider what support the child or children involved may need. This would usually be considered through the Strategy Meeting process.

- 15.17 Senior members of staff should be informed of the reasons for suspension but only as far as necessary. Generally, this should only mean informing staff that an allegation has been made and whom it concerns. Further detail should normally be withheld.
- 15.18 The Headteacher should also consider whether it is necessary to inform other members of staff. Advice should be sought from the LADO, Strategy Group and HR provider.
- 15.19 In certain circumstances, the Headteacher may need to provide immediate reassurance to parents and children in the school or educational establishment. Again, advice should be sought from the LADO/Strategy Group and HR provider on this matter. Any action should be considered against the need to avoid unwelcome publicity.

15.20 Review of suspension

All suspensions must be formally reviewed in line with the school's Disciplinary Procedure. The aim should be to ensure that suspensions are kept as short as possible.

16. Support for the Accused Member of Staff

- 16.1 Whether the member of staff is suspended or not, the impact of being subjected to child protection and/or criminal enquiries should not be underestimated. Employers have a duty of care to their staff and therefore the offer of appropriate support is essential.
- 16.2 Remember that for many staff, social networks can be substantially linked with their work. If restrictions on contact are made, extra careful consideration should be given to lines of support.
- 16.3 Recommended supports:
- A link person should be identified to keep the member of staff up to date with the development of the investigations. The link person will need to confirm with the investigating agencies what information can be shared and ensure that information is not withheld without good reason, and that there is not unnecessary delay in the sharing of information. The link person can also explain the processes if the member of staff is unfamiliar with how allegations against staff are normally managed.
 - The member of staff should be advised to seek help from their union or professional organisation if they hold membership. This should be viewed as additional support and not as a substitute for the employer's own duty of care.
 - Confidential counselling may be offered via their Occupational Health provider.
 - The member of staff can also be reminded to use the services of their own GP.
 - Where the member of staff has been suspended or offered duties away from their normal place of work, a senior colleague should be identified to keep them up to date with events in the school/establishment. This person must be directed not to discuss the investigation, but their day to day news of school matters will help reduce feelings of isolation and should assist with reintegration, if appropriate at a later date.
 - The distress caused by an allegation is likely to mean that significant information might not be absorbed by the accused member of staff, particularly when they are first told.

17. Action during child protection/criminal investigations

- 17.1 Staff in education have a duty to assist the police and children's social care with child protection enquiries.

- 17.2 Police should not normally conduct interviews on school premises, but where this is necessary, the interviews should be conducted at reasonable times.
- 17.3 Staff must maintain confidentiality about the enquiry, other than fulfilling their obligation to assist Police and children's social care.
- 17.4 The LADO should maintain records for each case and monitor progress by seeking regular updates from the investigating agencies, and where appropriate the Crown Prosecution Service.
- 17.5 The LADO should also clarify what information can be shared with the member of staff concerned, to ensure regular briefings.

18. Where criminal or child protection action are not required

- 18.1 Where the strategy discussion decides that a child protection or criminal investigation is not required, the Strategy group may recommend other appropriate action. This may include:
- Taking no further internal action
 - Issuing an informal warning and/or professional advice
 - Instigating an investigation under the school's disciplinary procedures.

No further action

- 18.2 If it is decided that no further action should be taken, the Headteacher, in consultation with Human Resources Adviser, should inform the member of staff, orally and in writing, confirming that no action under disciplinary or child protection procedures will be taken. In advance of meeting the member of staff, they should be advised that they may be accompanied by a friend or union representative.
- 18.3 A record of this decision and the actions taken must be kept by all parties.
- 18.4 Consideration should be given to the provision of support or counselling for the member of staff concerned.
- 18.5 The Headteacher, after consultation with the LADO, should inform the child and parents of the outcome. If dissatisfied, they should be advised of the school's/council's complaints procedure.
- 18.6 Consideration should be given to the provision of support for the child, and where appropriate, the parents, e.g. in respect of future contact between the child and member of staff concerned.
- 18.7 Where no further action has been decided because the allegation was demonstrably false and malicious intent was **evidenced**, a plan to address the child's behaviour should be agreed, with the involvement of those with parental responsibility.

Issuing an informal warning and/or professional advice

- 18.8 Where it is considered appropriate to offer an informal warning or words of advice, consultation should take place with Human Resources and the LADO and this should be carried out in line with the School's Disciplinary Procedure.
- 18.9 A record of the decision and advice/warning given must be kept by all parties.
- 18.10 Any additional guidance or training required should be recorded and acted upon within an agreed plan and timescale.

- 18.11 The child and parents should only be informed that the matter has been taken seriously and that it is being dealt with in accordance with the correct internal procedures. Further information and outcomes remain confidential and should not be released.

Instigating an investigation under disciplinary procedures

- 18.12 If it is decided that a disciplinary investigation should take place, the Headteacher, in consultation with the Human Resources Adviser, should appoint an Investigating Officer to conduct the investigation. The Headteacher must ensure the investigation is conducted in accordance with the school's Disciplinary Policy and Procedure.
- 18.13 A written record of a negative outcome of any disciplinary investigation under this procedure must be retained indefinitely on the member of staff's confidential personnel file.
- 18.14 If the employee resigns before the disciplinary process is completed, without providing the appropriate notice, the employer is not obliged to accept the resignation. In all cases appropriate attempts should be made to complete the process, so that the matter can be brought to a proper conclusion.
- 18.15 Where a pupil has made an allegation, a copy of the statement or the record made of it should be kept on the section of a pupil's file, which is not open to general disclosure, together with a written record of the outcome of the investigation. If there are related child protection concerns, records may be subject to disclosure; and, therefore, no assurances can be given regarding total confidentiality.

19. Substantiated Allegations: Referral to the Independent Safeguarding Authority or Regulatory Body

- 19.1 If the allegation is substantiated and the staff member is dismissed or the employer ceases to use the person's services, or the staff member resigns or otherwise ceases to provide his/her services, the Local Authority Designated Officer (LADO) should discuss with the employer and its HR provider, whether a referral to the **Independent Safeguarding Authority (ISA)** for consideration of inclusion on the barred lists or to the General Teaching Council (GTC), is required.
- 19.2 Employers have a legal duty to make a referral to the ISA where they believe that an individual has engaged in conduct (including inappropriate sexual conduct) that has harmed (or is likely to harm) a child or if a person 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. In cases of professional misconduct, they should be referred to the relevant regulatory body eg. the GTC in the case of teachers.
- 19.3 Referrals should be made as soon as possible after resignation or removal of the member of staff involved and within one month of ceasing to use the person's services.

20. Agency Staff and Volunteers

- 20.1 Where a concern of a child protection nature is alleged in relation to a supply teacher/worker (from an agency or self employed), trainee teacher or a volunteer, the matter should be dealt with in the same way as employed staff.
- 20.2 Where there are related concerns of a conduct or competency nature, it is the responsibility of the Headteacher, in conjunction with the LADO and Human Resources Adviser, to deal with the matter in accordance with the school's Disciplinary/Capability Procedures.
- 20.3 Liaison with a senior representative of an agent supplying a member of staff should also take place. The agent may be required to conduct an additional disciplinary investigation in accordance with its own procedures, or take precautionary action whilst the school undertakes its investigation e.g. suspend from other positions.

20.4 An agent might include, for example:

- An employment agency providing supply teachers or workers
- A training college placing students at a school
- A contractor providing services such as catering
- A voluntary organisation providing people to work with children.

21. Resignations and 'Compromise Agreements'

21.1 The fact that a person tenders his or her resignation, or ceases to provide their services, must not prevent an allegation being followed up in accordance with these procedures. 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 person 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 judgment about whether it can be regarded as substantiated on the basis of all the information available should continue even if that cannot be done or the person 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.

21.2 By the same token so called 'compromise agreements', by which a person agrees to resign if the school/setting agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, **must not be used in these cases**. In any event, 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) where circumstances require that.

22. Managing the Aftermath

22.1 The outcome of any internal disciplinary process should be shared, in writing, with the Named Senior Manager and/or LADO.

22.2 Whether an allegation has been substantiated, unsubstantiated, or unfounded, a debriefing, where deemed appropriate, involving the school, council and other investigative agencies should take place.

22.3 The impact on individuals concerned and the general morale within the school should be considered so that additional supports can be put in place.

22.4 Risk assessments should also be considered in relation to any practices which have made either staff or children vulnerable.

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 Milton Keynes Council children's social care services to determine whether the child concerned is in need of services, or may have been abused by someone else. In the event that an allegation is shown to have been deliberately invented or malicious, the Headteacher, should consider whether any disciplinary action is appropriate against the pupil who made it, or the police should be asked to consider whether any action might be appropriate against the person responsible, even if he or she was not a pupil. In September 2010 the Crown Prosecution Service published guidance for the police on harassment under the Protection from Harassment Act 1997.

24. Record Keeping

24.1 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 a person's confidential personnel file, and a copy provided to the person concerned.

24.2 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 CRB 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.

24.3 The record should be retained at least until the person has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer. 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://www.ico.gov.uk/upload/documents/library/data_protection/detailed_specialist_guides/employment_practices_code.pdf

25. Definitions of the outcomes of investigations

Substantiated – There is a sufficient identifiable evidence to prove or disprove the allegation.

Malicious – This means there is clear evidence to prove there has been a deliberate act to deceive and the allegations is entirely false.

Unfounded – This means that there is no evidence or proper basis which supports the allegations being made, or there is evidence to prove that the allegation is untrue. It might also indicate that the person making the allegations 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 simply means that there is insufficient identifiable evidence to prove the allegation. The term, therefore, does not imply guilt or innocence.

26. Useful links

- MKSCB Managing Allegations Against Staff, Carers and Volunteers - Chapter 13 – MKSCB Inter-Agency Safeguarding Procedures
http://www.proceduresonline.com/mkscb/chapters/p_alleg_staff.html
- AMA Guidance for Safer Working Practice for adults who work with children and young people
<http://www.miltonkeynes.gov.uk/education-welfare/documents/FinalGuidanceforSaferWorkin1%2Epdf>
- Safeguarding children and Safer Recruitment
<http://www.miltonkeynes.gov.uk/education-welfare/documents/Safeguarding%5FChildren%5Fand%5FSafer%5FRecruitment%5Fin%5FEducation%2Epdf>
- MARF (Multi-agency referral form)
http://www.miltonkeynes.gov.uk/education-welfare/documents/NEW_MARF_-_WITH_CAF_-_1-11-09.pdf
- Working Together to Safeguard Children 2010
http://www.workingtogetheronline.co.uk/wt_2010.PDF
- Behaviour and Discipline in Schools: a guide for Head Teachers and School Staff (DFE 2011)
<http://media.education.gov.uk/assets/files/pdf/b/behaviour%20and%20discipline%20in%20schools%20%20%20a%20guide%20for%20teachers%20and%20school%20staff.pdf>

27. KEY CONTACTS

NAME	ORGANISATION	E-MAIL & TEL NO.
Bill Cook	Local Authority Designated Officer (LADO) Milton Keynes Council	Bill.Cook@milton-keynes.gov.uk 01908 254306
Jayne Murphy Named Senior Manager (Education)	Principal Education Welfare Officer (Mon – Wed) Milton Keynes Council	Jayne.Murphy@milton-keynes.gov.uk 01908 657803
Linda Rayfield Named Senior Manager (Education)	Principal Education Welfare Officer (Wed - Fri) Milton Keynes Council	Linda.Rayfield@milton-keynes.gov.uk 01908 657816
Referral & Assessment Team (RAAT)	Children's Social Care Milton Keynes Council	Duty Desk: 01908 253169 or 253170
Vikki Blakeston	Team Manager RAAT Children's Social Care Milton Keynes Council	Vikki.Blakeston@milton-keynes.gov.uk 01908 253226
Jo Hooper	Head of Safeguarding Milton Keynes Council	Jo.Hooper@Milton-Keynes.gov.uk 01908 254307
Melinda May	Head of Children in Need Milton Keynes Council	Melinda.May@milton-keynes.gov.uk 01908 253127
CAIU(Child Abuse Investigation Unit)	Thames Valley Police	CAIU (Child Abuse Investigation Unit) 01908 276140
HR Helpdesk	Milton Keynes Council Human Resources	01908 253893 Please ask for the Schools Human Resources Advisory Team

www.milton-keynes.gov.uk/schools



Available in audio, large print,
Braille and other languages
Tel 01908 257800

Milton Keynes Council
Civic Offices
1 Saxon Gate East
Central Milton Keynes
MK9 3EJ

T 01908 657800
F 01908 373337
E educationwelfareservice@milton-keynes.gov.uk
W www.milton-keynes.gov.uk