



Staff Subject to Allegations

Thresholds for and Alternatives to Suspension

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1. Introduction

This document is intended to supplement the guidance contained in the Joint National Employers Organisation for School Teachers (NEOST)/Teacher Union Guidance on Education Staff and Child Protection “Staff Facing an Allegation of Abuse”. The guidance is aimed primarily at LEA officers to advise Head teachers, Governors and managers who are faced with child protection allegations against staff.

This paper sets out guidance on the use of suspension, and considers a range of suitable, safe alternatives.

When staff in schools, other education establishments or LEA support services become the subject of a child protection allegation, they may find themselves asked to refrain from work or suspended for the duration of the investigative process. Where the allegation is made against a supply teacher s/he should not be suspended on full pay, but should be prevented from returning to school during an investigation.

In employee relations terms suspension is deemed a neutral act¹ and in such cases, is intended as a safeguard for both the child making the allegation and the member of staff concerned.

Being suspended or asked to refrain from work, however, can give rise to great anxiety in the individual subject to the allegations. They may fear that colleagues and others within the school/community will have interpreted the very act of suspension as an indicator of presumed guilt from an early stage. In the case of an allegation made against a headteacher it should be acknowledged that they may feel particularly isolated and vulnerable.

Any member of staff subject to an allegation should be encouraged to seek advice and support at the earliest opportunity from their professional association or trade union. It must also be acknowledged that the whole school/community may be affected by a staff member's suspension, and consideration should be given to necessary support strategies to address this.

The need for support is equally applicable when considering a staff member's return to work. Suspension should be retained for as short a length of time as possible and if it is agreed a staff member is to return to school/work, careful planning needs to take place as to how this situation can be managed as sensitively as possible.

¹ See also Paragraph 14 of Joint NEOST/Teacher Union Guidance on Education Staff and Child Protection: Staff Facing an Allegation of Abuse

2. Determining the appropriate use of suspension²

2.1. Initial considerations

It may not be immediately obvious that suspension should be considered, and this course of action sometimes only becomes clear after information is shared with, and discussion had, with other agencies.

In some cases early or immediate suspension may impede a Police investigation, and therefore the decision whether to suspend may have to be delayed until sufficient evidence has been gathered.

DfES Guidance³ indicates that suspension should be avoided in such cases wherever possible, and should not be seen as an automatic response to an allegation. This applies to the possible suspension of headteachers as well as other staff.

Suspension should only follow after discussion with the lead officer. The decision to suspend remains the responsibility of the headteacher and governing body.

When considering suspension it is important to have regard to the following factors:

- I. The nature of the allegation
- II. Assessment of the presenting risk
- III. The context in which the allegation occurred
- IV. The individual's contact with children
- V. Any other relevant information
- VI. The power to suspend
- VII. Alternatives to suspension

As the Joint NEOST/6 Teacher Union guidance makes clear, suspension should only be applied if one or more of the following grounds apply:

- A child or children would be at risk
- The allegation is so serious that summary dismissal for gross misconduct is possible
- It is necessary to allow any investigation to continue unimpeded

² See also paragraph 14 of Joint NEOST/Teacher Union Guidance on Education Staff and Child Protection: Staff Facing an Allegation of Abuse.

³ See paragraphs 44-48 of DfEE Circular 10/95 "Protecting Children from Abuse: The Role of the Education Service"

2.2. Nature of the allegation

Consideration should be given to the nature of the allegation, the severity/frequency of the alleged incident and any other relevant background information about the member of staff and child concerned.

2.3 Assessing the Presenting Risk

The headteacher/manager should simply confirm:

- That an allegation has been made
- The general nature of the allegation
- When and where the incident is alleged to have occurred
- Who was involved
- Any other persons present

These matters should be discussed with the LEA Lead Officer and school's personnel advisor in order to agree how to take matters forward. An assessment of risk may change in the light of new evidence or information received.

Some children's ability to communicate effectively may be affected by:

- Learning or language difficulties
- Emotional, social, behavioural difficulties
- Other special needs or disabilities
- English being an additional language
- Shock
- Fear

The fact that a child may not be able to articulate or corroborate an allegation should not in itself preclude suspension or a thorough investigation by the appropriate agencies. All of these factors where present should also be discussed with the LEA Lead officer.

2.4 Context in which allegation occurred:

The 'context' in which the alleged incident occurred is crucial information. It is important to consider whether the actions that resulted in the allegation would be compatible with work that the member of staff would normally be required to do, and whether it is normal practice within the school/organisation. For example, was the member of staff pursuing their normal professional duties in a part of the establishment where they would normally be?

Understanding the context helps to inform the assessment of the presenting risk following an allegation being made, and this will help the headteacher/manager identify if the alleged actions were either reasonable in the circumstances, or corroborate the allegations.

2.5 Contact with Children:

In considering the staff member's contact with children, thought should be given to their usual working practice and any potential risks, either to the child/ren or the member of staff. If continued access to children would pose a risk, alternative arrangements should be agreed.

2.6 Any other relevant information

If the nature of the allegation is such that an inter-agency strategy discussion is held, the issue of suspension and information sharing will be considered. The outcome of the strategy meeting may be that suspension of the member of staff is recommended. Headteachers/governors/managers should have regard to this when reaching a decision about suspension.

In some cases, Police and Social Services may also determine how and when information is shared in relation to their own investigative procedures. This may be particularly pertinent in relation to sharing the detail of an allegation with the accused member of staff.

2.7 The power to suspend

It is important to remember that the power to suspend school or other education establishment staff is vested in the headteacher and the governing body of the school/establishment. The headteacher can suspend any other member of staff and the governing body can suspend the headteacher.

When an allegation is made against members of staff in other LEA support services it is usually the head of service who will suspend.

The decision whether or not to suspend, or whether to continue a suspension, may need to be reviewed in light of new evidence at any stage in the procedures.

2.8 Alternatives to suspension⁴

While weighing the factors as to whether suspension is necessary, available alternatives to suspension should be considered. This may be achieved by:

⁴ See also paragraphs 14 and 15 of Joint NEOST/Teacher Union Guidance "Staff Facing an Allegation of Abuse"

- Leave of absence
- Undertaking different duties which do not involve direct contact with the individual child or other children
- Providing a classroom assistant or other colleague to be present throughout contact time

If the member of staff is not based in a school then an alternative may be to:

- Undertake office duty
- Undertake non contact tasks only

3. Action Plan

The Children Act 1989 established the principle that the interests of the child are paramount. This, however, must be considered alongside the duty of care to staff. Any individual subject to allegations should, regardless of the decision to suspend or otherwise, be offered welfare support. Where possible, a means of monitoring the take up and effectiveness of welfare support without compromising confidentiality or trust should be sought.

Where suspension is being considered, the duty of care requires the head teacher to ensure that appropriate support is available to the member of staff. In the case of an allegation against the headteacher, this responsibility lies with the Chair of Governors (or nominated Chair). Agreement must be reached with education personnel (and police where appropriate) as to how information will be shared and contact maintained with the member of staff throughout the investigative process. This should include agreement as to:

- How the member of staff will be kept updated about the progress of the investigation
- How support and counselling are to be offered
- How links will be maintained with the school so that the staff member is kept informed of other matters occurring within the school.

4. Confidentiality

The headteacher, Chair of Governors (or nominated Governor) and LEA officers have a responsibility to safeguard confidentiality as far as is possible. Sensitive information must only be disclosed on a need to know basis to other professionals involved in the investigative process. Other people may become aware of the allegation and may not feel bound to maintain confidentiality. Therefore consideration should be given on how best to manage information, particularly in relation to who should be told what, when and how. This is particularly germane in respect of parents, carers and the media.

5. Planning and Recording⁵

It is essential to record the decisions reached and the rationale behind them. Records should also be made of the agreed action and strategies to manage the situation.

The plan should clearly indicate the following:

- Any restrictions to normal contact or activity
- Issues of contact with children
- Arrangements for monitoring and welfare support in relation to the member of staff
- Monitoring and support available for the child

It is important for the LEA lead officer to keep a record of the actions taken in the course of the investigation. They should also monitor progress to ensure that the investigation and, where relevant, the process and conclusion of suspension is undertaken as quickly and fairly as possible. If individuals have specific tasks or responsibilities to carry out, this should be noted and followed up. Agreed strategies for managing and sharing information should be included here. In addition, the member of staff should be informed of the decisions taken at the earliest opportunity.

The following headings may be useful when recording the action plan:

Assessment of Risk

The presenting risks should be recorded, outlining details of the allegation, the risk factors identified and the rationale for any decision made in view of those risks.

Action to be taken

Who will do what, by when, including reasons for the action agreed.

Welfare support

⁵ See also paragraph 21 of Joint NEOST/Teacher Union Guidance on Education Staff and Child Protection: Staff Facing an Allegation of Abuse" 2002

This is both for the child and the member of staff, plus a means of monitoring its take up and effectiveness, if possible.

6. Conclusion

Any act such as the suspension of a member of staff will inevitably have a profound impact within the immediate working community, for the individual concerned, their colleagues, plus the pupils and their families. Further advice and guidance in respect of this sensitive issue can be found in the following documents:

- Managing the Aftermath of Unfounded and Unsubstantiated Allegations IRSC Guidance 2004
- Definitions and Thresholds for Managing Allegations Against Education Staff IRSC Guidance 2004
- What to Do If You're Worried a Child Is Being Abused (DOH et al 2003) (www.doh.gov.uk/safeguardingchildren/index.htm)
- Protecting Children from Abuse: The Role of the Education Service DfEE Circular 10/95
- Joint NEOST/Teacher Union Guidance on: Education Staff and Child Protection: Staff Facing an Allegation of Abuse 2002