

**Annex 1 Disciplinary Procedure**

**Safeguarding : managing allegations against employees who work with children and vulnerable adults**

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**1. Introduction**

It is recognised that the vast majority of staff who work with children and vulnerable adults act professionally and aim to provide a safe and supportive environment which secures the wellbeing and very best outcomes for these vulnerable groups. It is however recognised that in this area of work, tensions and misunderstandings can occur.

Whilst it is acknowledged that allegations may be false, malicious or misplaced, they may also be innocent of such intent, but arise from differing perceptions of the same event; they may also be well founded. Regardless of the motives underlying any allegation, they will always be taken seriously by the Authority. However, when they occur, they are inevitably distressing and difficult for all concerned.

Allegations of abuse may be made against an individual employee in relation to either their private life or in their professional capacity.

The purpose of this Guide is to inform employees of the co-ordinated management of allegations of abuse.

**2. Legal and Procedural Context**

Allegations of abuse by staff in relation to children and looked after children are managed in line with the All Wales Child Protection Procedures 2008 and the procedures outlined in Safeguarding Children: Working together under the Children’s Act 2004, the Children’s Act 1989. The Pembrokeshire Safeguarding Children’s Board (PSCB) has also published a document for local use ‘Handling Allegations of Abuse made against Adults who Work with Children and Young People’ 2012.

In respect of allegations of abuse by staff in respect of vulnerable adults the Care Standard’s Act 2000 introduced the Protection of Vulnerable Adults (POVA) scheme.

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### 3. Key Elements in the Process

The following key elements should be incorporated by Governing Body's / Heads of Service into the preliminary inquiry procedures.

- 3.1 If a complaint about a member of staff is made, or a concern expressed, an early determination will need to be made about whether it is a child or adult protection matter. An initial assessment only is required by the Headteacher / Line Manager to determine the nature and circumstance of the allegation (but not investigate). If at this stage it is 'unequivocally' demonstrated that it is impossible for the allegation to be true then no action need be taken against the staff member. An example of this is where it can be proven beyond doubt that the employee subject to the allegation was not in the same place as the victim cited or referred to in the allegation.
- 3.2 If, however, after initial assessment and in discussion with the local authority's child / adult protection officer, there is an indication of doubt, there appears to be substance to the allegation or concerns about the behaviour of staff there needs to be an immediate referral to the statutory authorities and/or the Police.

The Authorities' Child Care Assessment Team can be contacted on 01437 776688/6324 or out of hours 08708 509 508, they will in turn inform the designated lead on child protection for the Authority, Matthew Brown, Principal Manager Safeguarding & Quality Assurance (PMSQA) who will ensure the link with relevant prescribed persons as appropriate.

- 3.4 The member of staff and their union representative would normally be informed that a referral is being made, but there may be exceptional circumstances where this will not be appropriate, the decision will be subject to a safeguarding risk assessment
- 3.5 The following criteria for suspension should be considered to ensure appropriate safeguarding risk management arrangements for staff subject to allegations<sup>1i</sup>:
- i. where an allegation has been made which, if proven, would lead to a dismissal or prosecution
  - ii. where a child/vulnerable adult could be placed in danger if the member of staff were not removed from duty
  - iii. where it is necessary to allow a full and proper investigation and the taking of statements for criminal proceedings
  - iv. where the staff member is placed in a vulnerable position by remaining at work

Head Teachers / Governing Body / Heads of Service need to consider whether any of these criteria are met before implementing immediate suspension and a risk assessment should be completed. A review of the decision to suspend / not to suspend will be an Agenda item at the Strategy Meeting Ref. 4.1

- 3.6 Where the criteria in 3.5 are not fully met, Ref. 3.5 (iv) or where there is a clearly vexatious allegation against a member of staff, alternatives to suspension should be considered:

<sup>1</sup> A Risk Assessment Template is available for School Staff

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- the feasibility of reassigning the member of staff to other duties e.g. office work
- providing a colleague to be present when the staff member has contact with children or vulnerable adults.

3.7 In all cases the Line Manager / Headteacher should advise the individual to seek assistance from his or her Trades Union or Professional Association.

If the member of staff is not able to be supported by their Line Manager, then they should be offered an alternative contact person, who can offer help and guidance during the subsequent process. They should also be reminded they can access the Authority's Employee Assistance Provider, First Assist on 0800 068 5155 (scheme number 33439) or Teacher's Support Line Cymru 08000 855 088, [www.teachersupport.info/wales](http://www.teachersupport.info/wales) or the Authority's Occupational Health Unit, via their link HR Advisor. An assumption that support will be provided by their trades union is not sufficient

Where there is a need to suspend a member of staff on a Friday or just before a holiday period, special consideration should be given to the support arrangements to ensure immediate availability.

3.8 It is also appropriate to discuss with the member of staff what colleagues and the wider school community / customer group will be told concerning the reason for the absence. This is particularly important in cases of a sensitive nature and will allay continued suspicions or doubts on a return to work on the conclusion of any investigation/disciplinary action.

3.9 The employee should be assured that every effort will be made to preserve confidentiality.

#### 4. The Strategy Meeting and Co-ordinating the Investigation

4.1 The Strategy Meeting will be convened within two working days to plan and co-ordinate the investigation and staff management issues.

4.2 The Strategy Meeting is the core mechanism for:

- determining whether a Section 47 (Children Act 1989) / Adult Protection inquiry is required
- planning the investigation in relation to child / adult protection, criminal investigation, and disciplinary investigation
- ensuring that the child's / adult's voice and experience is heard
- managing the personnel issues
- a consideration of suspension or a review of the decision already taken to suspend
- co-ordinating the procedures being operated and determining their relative priority in the event of any conflict
- nomination of the case coordinator

4.3 The Strategy Meeting should, therefore, be attended, as deemed appropriate, by:

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- The PMSQA or designated Senior Manager (Social Services) / Adult Protection Coordinator
- Senior Police or Specialist Police Officer with child / adult protection responsibilities
- Legal/Medical advisors as appropriate
- Line Manager of the staff member / Head Teacher or representative
- HR Representative
- Any other person with relevant information

4.4 The Case Co-ordinator will normally be a senior manager from Social Services, who will be responsible for:

- ensuring that members of the Strategy Meeting are kept fully briefed on actions and developments under child protection, criminal investigation and disciplinary procedures
- ensuring that the Authority discharges its responsibilities for both the protection of the child / vulnerable adult and its responsibilities as an employer towards its staff
- ensuring that a full record is taken of the Strategy Meeting(s). A 'case co-ordinator' will then receive the information on the outcomes of child/adult protection enquiries, disciplinary investigations and police actions. The case co-ordinator will be responsible for ensuring that a central file is maintained, which records all information and actions in relation to the allegations.

4.5 The Child / Adult Protection Investigation will normally be conducted on a joint basis between Social Services and the Police. Criminal investigation issues will normally arise out of the joint investigation process, and will be separately managed by the police

4.6 Where the case involves police investigation, the police should obtain consent at the outset from the individuals concerned to share statements and evidence they obtain with the investigating officer subsequently appointed in any internal disciplinary investigation. Children's Social Services will adopt a similar procedure. This will ensure that information obtained in the course of these enquiries can be passed on without delay in the event of an internal disciplinary investigation being undertaken.

4.7 All decisions made and any identified concerns, and the view taken of them, will need to be fully recorded

4.8 Clear timescales for the child / adult protection investigation and subsequent or parallel disciplinary investigation process should be established. Whilst it would be normal practice to await the outcome of the police investigation prior to invoking the internal disciplinary procedure, it could well be a consideration, except in the most severe or complex cases, to run the police investigation and any disciplinary processes that arise out of the child protection investigation in parallel.

Please note however that current Welsh Government Guidelines are specific that disciplinary procedures involving an independent investigation for school based staff, cannot begin until legal processes are over.

4.9 There should be clear communication with the employee under investigation about the concerns and the processes that are being followed. In some instances, detailed information may prejudice continuing investigations but, as a minimum, the employee

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against whom the allegation is being made should be given a broad understanding about the nature of the concern.

- 4.10 Should the meeting decide that a Section 47 (Children Act 1989) inquiry / Adult Protection inquiry is not required, there may still need to be matters which are subsequently considered internally under disciplinary procedures.

**5. Staff Management/Disciplinary Issues**

- 5.1 The following issues need to be considered by the appropriate Line Manager/Head Teacher/ Chair of Governors:

- timescale for suspension / alternative duties
- frequency of reviews during this period
- frequency of communication with contact person Ref. 3.8
- how the employee is to be advised of the outcome
- The staff member should be afforded the opportunity of trade union support at this meeting if practicable

**6. Strategy Review / Outcome Meeting**

- 6.1 The initial Strategy Meeting will have determined the entry of an allegation into the child/adult protection system. The Strategy outcomes review meeting is held following the completion of the investigation, and will determine whether it remains in, or exits from, the system.

- Child protection s.47 / Adult protection enquiries result in a criminal investigation
- Child protection s.47 / Adult protection enquiries not required; criminal investigations cease and internal investigations in accordance with disciplinary procedures recommended

The review meeting membership will consist of those involved in the strategy meeting, plus relevant others who have been directly involved in the investigation process.

- 6.2 The Strategy Outcomes Review meeting will be convened by the case co-ordinator and will undertake the following tasks:

- evaluate the information/findings gathered during the investigation
- decide, on the balance of probability, whether there is substance in the allegation
- decide whether any further action is needed in the light of the information gathered, eg: refer to line manager for consideration under internal disciplinary procedures
- Decide whether to recommend that the Head of Service / Governing Body makes a referral to ISA, CCFW, GTCW;
- ensure that the outcome is properly recorded
- advise on support for staff
- consideration will need to be given to what information is given to the affected parties about the outcome, whether substantiated or not

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- 6.3 It is essential that a representative of Line Management and / or HR is present at the Outcomes Review meeting, as the conclusions reached will have a major bearing on the disciplinary processes that may follow.
- 6.4 For school based staff the consideration of referral for independent investigation is the responsibility of the Governing Body in respect of allegations which would be considered gross misconduct [Assembly Government appointed Servoca Plc to manage the IIS on the Authority's behalf].
- 6.5 An abridged written report of the Strategy Outcome will be provided for the Personnel File to protect the sensitive data of vulnerable groups. A copy will be provided to the staff member.

**7. Referral to the Independent Safeguarding Authority, General Teaching Council for Wales, Care Council for Wales**

- 7.1 The ISA took over the management of such referrals on 20<sup>th</sup> January 2009. A relevant employer, or agent (e.g. a teacher supply agency), is required by law to make a referral to the ISA, where they cease to use a person's services, or the person ceases to provide his/her services, before or after a disciplinary process is completed, because they are considered unsuitable to work with children, as a result of misconduct, or because of a medical condition that raises a possibility of risk to the safety or welfare of children. The report should be made within one month.
- 7.2 Consideration as to whether a referral to ISA, CCfW, GTCW is required should be made at each and every stage of the inquiry process, and should be an Agenda Item at the preliminary assessment of facts, Section 4 of the Disciplinary Procedure, the Strategy Meeting and the Investigations Outcomes Meeting, in consideration of the attached guidance from the relevant regulatory body.

For information on the referral process:

Independent Safeguarding Authority:

<http://www.isa.homeoffice.gov.uk/PDF/Referral%20Guidance%20and%20Form%20FINAL%20v%2010-01.pdf>

Care Council for Wales:

<http://www.ccwales.org.uk/registration-and-conduct/conduct-and-practice>

General Teaching Council for Wales:

[www.gtcw.org.uk](http://www.gtcw.org.uk)

- 7.3 The HR designated officer has a joint responsibility with the designated line manager / Governing Body for referral to ISA, CCfW, GTCW

**8. Confidentiality**

Access to information relating to safeguarding allegations is restricted on a 'need to know basis' and every effort will be made to maintain confidentiality

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and guard against publicity while an allegation is being investigated and considered.

## 9. Record keeping

- 9.1 It is important that a clear and comprehensive summary is maintained of any allegations made:
- Events leading to the allegation or concern
  - The circumstances and context of the allegation
  - Professional opinions
  - Decisions made and the reasons for them
  - Action that is taken
  - Final outcome
- 9.2 These details should be kept in a person's confidential personnel file and a copy should be given to the individual. Such information should be retained on file, including for people who leave the organisation, at least until the person reaches normal retirement age, or for 10 years if that is longer.
- 9.3 The principles of record keeping will follow the principles contained within the Data Protection Act 1988.

### Reference:

Disciplinary and Dismissal Procedures for School Staff March 2011 Guidance Circular No. 007/2011

All Wales Child Protection Procedures 2008

*Working Together to Safeguard Children*

[www.dcsf.gov.uk/everychildmatters/safeguardingandsocialcare/safeguardingchildren/workingtogether/workingtogethertosafeguardchildren](http://www.dcsf.gov.uk/everychildmatters/safeguardingandsocialcare/safeguardingchildren/workingtogether/workingtogethertosafeguardchildren)

'Handling Allegations of Abuse made against Adults who Work with Children and Young People' 2012; Pembrokeshire Safeguarding Children's Board

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