

**ABERDEEN CITY COUNCIL
EDUCATION, CULTURE AND SPORT**

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Handling Allegations Against School Staff Procedure

Please find attached the Handling Allegations Against School Staff Procedure which was agreed at LNCT on 14th May 2010. Please note that Support Staff unions were also involved in writing this procedure, which applies to all staff working in schools.

This is the Procedure which should now be used whenever allegations are made against staff in school.

If you have queries regarding the application of this Procedure, please contact Kirsten Foley, Principal HR Adviser.

Circulation:

For Information To: ALL SCHOOLS; Staffing Teams



ABERDEEN

CITY COUNCIL

HANDLING ALLEGATIONS AGAINST SCHOOL STAFF

May 2010

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Section 1 Introduction

School staff are in a position of trust and have a duty to safeguard the children entrusted to their care. Occasionally, however, a member of school staff will be accused of improper conduct and when this arises, there is a requirement to reconcile the need to adopt a cautious approach in the interests of safeguarding children and the need to protect the rights and livelihoods of those who work with children. Whilst it is acknowledged that this can be difficult, effective management of such allegations plays a critical role in ensuring that those who work with children are safe to do so and that those subject to the claims are treated fairly and supported.

Allegations against staff in schools can come from a range of sources - members of the public, other staff, parents or other relatives of pupils. All allegations, regardless of the source, will be treated seriously, investigated quickly and handled fairly and carefully to minimise disruption and the impact upon everyone involved. Allegations will be handled under the appropriate procedure, as identified in **Section 2.1, Scope**.

It is important to note that, where required, child protection and criminal investigation procedures will take precedence over this procedure.

It is recognised that staff working in schools are in a vulnerable position and allegations may be motivated by a deliberate desire to exploit this based on resentment or a malicious intent. Where investigations suggest that this is the case, appropriate action will be taken.

Section 2.1 Scope

This procedure applies to all employees of Aberdeen City Council who are deployed within schools.

This procedure will be applied to all allegations against school based staff received from pupils and members of the public. Allegations raised by a colleague should be pursued under the Aberdeen City Council Grievance Procedure.

An investigation undertaken as part of this procedure may feed in to other ACC procedures, for example the Disciplinary Procedure, Managing and Preventing Harassment at Work Procedure, GTCS Code of Competence/Managing Performance Procedure or other procedures as deemed appropriate.

This procedure helps The Authority to meet its safeguarding responsibilities, as set in Government publications ***Working Together to Safeguard Children***, published in 2006, and ***Safeguarding Children and Safer Recruitment in Education***, which came into force in January 2007.

Section 2.2 Core Principles

- Notwithstanding our duty to safeguard children, an employee who is the subject of allegation should be treated according to acknowledged principles of justice and should be regarded as innocent until proven guilty.
- All allegations will be treated seriously and will be investigated according to the procedure laid out in this document.
- All matters will be dealt with promptly and in confidence.

- The employee against whom the allegation has been made should be informed of the details of the allegation as soon as sufficient information is available. The nature of the allegation will then be confirmed in writing.
- Employees will be offered the opportunity to be represented by a trade union representative or colleague at any investigation meetings. The employee will not normally be permitted to be accompanied by a legal practitioner, partner, spouse or family member.
- In all cases school management need to be aware of the responsibility to demonstrate the Council's commitment to meeting its general duty of care and to promoting an environment that safeguards the health and welfare of staff and pupils.

Section 3.1 Suspension

- Suspension must not be used as an automatic response to allegations. The merits of suspension need to be carefully considered and alternatives to suspension used where this is appropriate following a risk assessment.
- Where it is considered necessary, an employee may be suspended whilst the investigation and any subsequent action is undertaken. A suspension is not an assumption of guilt. Any Head Teacher who considers that the nature of the allegations would make a period of suspension appropriate to protect any individual involved must seek the advice of the designated manager within Education, Culture and Sport and Human Resources prior to suspending the employee. If this is not possible due to unavailability or the need to act instantly then the suspension should not be delayed, provided there are reasonable grounds for the suspension and the manager and an HR Adviser are contacted as soon as possible thereafter.
- Any suspension will be reviewed on a regular basis to ensure that it is not unnecessarily protracted.
- The suspension will be confirmed in writing.
- In some circumstances it might be more appropriate to remove the member of staff against whom the allegation has been made from some of his/her duties. In such circumstances it may be more appropriate to allocate alternative duties, either within the school or in a central office, rather than to suspend.

Section 3.2 Investigation

- As detailed in the Core Principles, all allegations will be investigated.
- The investigation will be undertaken by a member of the school SMT.
- The objective will be to establish all the facts of a particular case before a decision is taken as to whether or not the allegation is founded and further action is required.
- The investigating officer will carry out the investigation promptly, consistent with the principles of fairness and natural justice.
- The investigation process should last no longer than **10 working days**. Where this timescale cannot be met, all parties to the investigation should be kept advised of likely timescales.

- The employee involved will normally be interviewed prior to which they must be given adequate notice in writing of what is being alleged, the nature and purpose of the investigation, the procedure to be followed and the right to be accompanied.
- If the employee is unable to attend because his/her “companion” is not available on the proposed date, the employee can suggest another date although it must suit everybody involved and be **no more than 5 working days after the original date**.
- If the employee fails to attend the rearranged meeting, the investigating officer will decide whether or not it is appropriate to proceed on the basis of the information and evidence that they have been able to obtain.
- The investigating officer will then produce a summary report of his/her findings, conclusions and recommendations.
- The investigating officer will decide, on the available evidence and balance of probabilities, whether the matter should be dropped, dealt with informally or referred to a hearing under the appropriate procedure.
- On conclusion of the investigation, the investigating officer will inform the employee in writing as to the outcome.

Section 4.1 Links to Other Procedures

Where the Investigation Officer finds the allegation to be upheld, s/he will recommend that the matter is addressed under the appropriate procedure, for example Disciplinary Procedure, Managing Performance, GTCS Code of Practice on Teacher Competence or Managing Attendance.

The Investigation Report will form the basis of the evidence for a hearing, and in many cases there will be no requirement for a further investigation to take place. However, it may be appropriate in some cases (for example where concerns regarding performance or competence have arisen), for further investigation to take place.

Section 4.2 Unfounded and Malicious Allegations

- In cases where the employee has been exonerated, a debriefing meeting should be held to advise the employee of this and to discuss how any necessary support may be given. This should include agreeing with the individual concerned the most appropriate way of communicating the outcome of the investigation to those who are aware of the allegation.
- Where it is reasonable to conclude that the allegation was made with malicious intent, and where this can be established on the part of a pupil, appropriate disciplinary action should be taken against the pupil. It is essential that there is clear evidence to support this action, and any action taken must be appropriate to the incident and to the pupil’s age and understanding.
- Where an allegation which is determined to be malicious has been made by a parent or member of the public, advice may be sought from the Legal Service on appropriate action.

Handling Allegations – Process

