



WHISTLEBLOWING POLICY

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WHISTLEBLOWING PROCEDURES & DEALING WITH ALLEGATIONS OF ABUSE AGAINST STAFF

1. INTRODUCTION

1.1 The following procedures apply where allegations concern members of staff employed directly by the Basildon Academies' Trust. [See Section 4.2]

1.2 Heads of establishment should always inform the LADO of any child protection related issues involving members of staff.

1.3 Contemporaneous notes should be made at every stage of the process and retained indefinitely. Any such notes are evidential and should be signed, with date and time. The original hand written notes should also be retained.

1.4 Throughout this guidance, where an allegation is made against the Headteacher (or equivalent), a governor must be deputed to take the role assigned to the head of establishment. The deputed governor should not normally be the nominated governor for child protection (nor the Chair of Governors where he/she is not the nominated governors).

2. COMPLAINTS AND ALLEGATIONS

2.1 Concerns about the behaviour of a member of staff towards a student 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.

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 Services;
- directly from students themselves;
- indirectly from students e.g. through written/art work or through friends; and,
- occasionally anonymously.

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.

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 Services 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.

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 SET Child Protection Procedures should be implemented promptly.

3. ESTABLISHING INITIAL FACTS

3.1 When an allegation of inappropriate behaviour is received by the Basildon Academies' Trust, it is essential that heads of establishments and other managers and advisers do not begin a full investigation. This would breach Child Protection Procedures and may impede a criminal investigation.

Basildon Academies' Trust staff should contact the LADO without delay, who will support managers with managing the process. This means that interviews should not be conducted with students, members of staff or potential witnesses at this stage. However, it is obviously necessary to establish the basic facts.

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 the designated teacher/nominated governors where the Headteacher is the subject of the allegation).

3.3 Heads of establishments should undertake, or cause to be undertaken, some brief preliminary enquiries to try to establish whether something has occurred.

In undertaking these enquiries the LADO 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.
- The member of staff will normally need to be spoken to and advised as soon as possible of the likely course of action. However, where the allegation is of a serious nature, the LADO liaises with Social Services/the police about what information can be given to the employee (see 3.6). 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 expert legal advice.
- 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.
- Limit the information provided about the allegations to involved parties.
- 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.

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

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 LADO in the first instance.

3.6 In cases where Social Services/the Police subsequently wish to investigate, Basildon Academies' Trust staff 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 LADO will discuss with the Basildon Academies' Trust, what information can be disclosed. [Refer to Appendix D] Appendix B gives some examples of procedures for conducting preliminary enquiries and particularly in dealing with students in this respect.

4. INITIAL DETERMINATIONS

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.

4.2 Where the allegation is against a member of staff not employed directly by the Basildon Academies' Trust, the employing agency should be contacted (the LEA for supply staff on the LEA List, behaviour support, music, travellers etc or the employment agency) as soon as possible. The LADO should be contacted in all cases. Ideally, in these circumstances, the LEA/agency will work jointly with the Basildon Academies' Trust to work through the child protection procedures. In the case of agency staff, the Basildon Academies' Trust may request that the agency no longer sends the teacher to the Basildon Academies' Trust, although it is anticipated that child protection procedures would be followed through.

4.3 The LADO should be consulted about the appropriate next steps.

In general, the preliminary findings and resultant actions will be as follows.

5. NEXT STEPS

5.1 If the allegation is considered to be a potential criminal act, or indicates that the child has suffered, is suffering or is likely to suffer significant harm, the LADO will make an immediate referral without delay to Social Services in accordance with SET Child Protection Procedures.

The Basildon Academies' Trust should liaise with the Lead Officer in this regard. The referral process is outlined in more detail in Section 6.

5.1.1 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 the Academies during the investigation period [See Section 8]. If insufficient information is available, a decision on this issue may be deferred.

5.2 There will be other instances however, where allegations do not require referral. (Again, advice should be sought from the LADO).

5.2.1 Where the allegation relates to the use of reasonable force to restrain a student, in accordance with S 550A of the Education Act 1996 and DfE.

Circular 10/98. 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.

5.2.2 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 interagency referral in order that any underlying causes can be teased out.

5.2.3 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 Basildon Academies' Trust level, using the disciplinary procedures where appropriate. [See Section 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.

6. REFERRAL TO SOCIAL SERVICES, CHILD PROTECTION TEAM

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 Basildon Academies' Trust and the LADO will make an immediate referral to:

- Social Service, who act as the 'lead agency' in such matters.

Referrals should be by telephone and confirmed in writing within 24 hours.

The Basildon Academies' Trusts should also report the matter to;

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

The LADO will liaise with other LEA services i.e. HR Team.

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

6.3 On some occasions, reports may be made directly to Social Services or the Police by parents. The parent may also inform the Basildon Academies' Trust, in which case the Basildon Academies' Trust should contact the LADO prior to making even the preliminary enquiries described above

7. SOCIAL SERVICE/POLICE ROLE

7.1 Once a referral has been made, it is Social Services who will make an initial judgement as to the seriousness of the allegations, and whether further formal action is required within, or resulting from, the provisions of the Children Act 1989. Social Services will also make contact with the Police as necessary.

7.2 On some occasions, Social Services 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.

7.3 It is important to remember, that if Social Services decide that no action will be taken by them, this does not necessarily negate the need for the Basildon Academies' Trust to undertake an investigation under its own disciplinary procedures [See Section 9].

7.4 In many cases however, within a short period of the referral being made, Social Services will call a Strategy Meeting as follows.

7.5 A Strategy Meeting is a meeting of various agencies who have a role within the child protection procedures. The meeting will be organised and chaired by the Social Services Child Protection Team 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.

7.6 In addition to Social Services, the Strategy Meeting will normally be attended by:

- a member of the Police Child Protection Unit;
- the LADO
- the head of establishment;*
- a personnel adviser**

* A governor (usually the chairman of governors) should attend instead, if the allegation relates to the head of establishment. 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 Team will often be invited by Social Services directly. HR will usually contact the Basildon Academies' Trust prior to the meeting and in the case of Foundation and Voluntary Aided Basildon Academies' Trusts will normally only attend with the agreement of the head of establishment/governor.

7.7 Attendance at Strategy Meetings should be regarded as a priority.

7.8 At the meeting the Basildon Academies' Trust representative should have available:

- details of the child(ren) concerned (dates of birth, family details, information on general conduct/behaviour in Basildon Academies' Trust);
- 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 Basildon Academies' Trust or LEA 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 Services in advance of the strategy meeting.

7.9 If the outcome of the referral/Strategy Meeting is that Social Services and/or the Police wish to investigate the matter, the Basildon Academies' Trust must take no further action (other than appropriate action relating to the member of staff's continued presence in post [See Section 8]) until given leave to do so by Social Services or the Police [See Appendix D].

8. ALTERNATIVE WORKING ARRANGEMENTS DURING INVESTIGATION

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.

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 Basildon Academies' Trust. 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.

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.

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 student 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 Services where appropriate.

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.

8.6 Where the Chair of Governors suspends or arranges alternative work arrangements with the Headteacher, the governing body and the LEA should be informed.

9. DISCIPLINARY ACTION BY THE BASILDON ACADEMIES' TRUST

9.1 As referred to throughout this document, there is a distinction to be drawn between the considerations made by Social Services, the Police and the employer – the education establishment.

9.2 In some cases it will be necessary for the Basildon Academies' Trust 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 Services 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 3.5]. 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.

9.3 Advice should be sought from the LADO and HR advisers as appropriate.

9.5 In circumstances where an employee is dismissed (and in most cases 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 DfE Children's Barred List list of excluded employees. Referral should also be made to the HR Team for consideration for inclusion on The List.

9.6 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.

9.7 Basildon Academies' Trust staff 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. Basildon Academies' Trust staff 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 Basildon Academies' Trust should not be vulnerable. It is in everyone's interests, not least children's, that Basildon Academies' Trust staff work together to prevent abuse. The use of Compromise Agreements in concluding employment is not recommended in child protection related cases.

9.8 The Basildon Academies' Trust 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 LADO 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.

10. SUPPORT FOR STAFF AND OTHERS

10.1 Employers have a legal 'duty of care' for the safety, well-being and health of their staff and it is important where any employee is moved from their usual post, or from the Basildon Academies' Trust entirely, that he/she is kept informed, as far as possible, about any relevant progress in the case and about general Basildon Academies' Trust issues.

10.2 The Headteacher should be responsible for discussing the child protection procedure/disciplinary issues with the member of staff and another person should be assigned to act as the link on general Basildon Academies' Trust issues. The link should not be the designated child protection person in the Basildon Academies' Trust.

10.3 Ideally the link person for the employee will be the Headteacher (Head of School) 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 Headteacher (Head of School) 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 Basildon Academies' Trust 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 LEA will be allocated to support the Headteacher through the provision of timely and relevant information.

10.4 The Basildon Academies' Trust should also distribute Basildon Academies' Trust mail and developmental materials to the employee's home address and arrange where practicable for him/her to be kept abreast of events within the Basildon Academies' Trust. In many cases it will be appropriate for the member of staff to continue to attend external training courses and non- student days.

10.5 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.

10.6 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, eg stress counsellor.

10.7 The HR Team may assist where possible in liaising with trade unions and professional associations. However, where they might be agents of the management of the Basildon Academies' Trust, personnel staff cannot act as advisers to individual employees.

10.8 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 the Academies 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 the Basildon Academies' Trust.

10.9 Unfounded allegations are often not the result of maliciousness, but more often of misunderstanding or misperception and students 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 student as well as protecting the employee.

10.10 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 Services or suspension, are necessary and do not represent an exaggerated or overly- judgmental response. [See also Section 11]

10.11 Consideration should also be given to the support that may be required for the child or children making the allegations and their parents. Advice should be sought from the LADO.

11. SHARING INFORMATION

Managers should seek advice from the LADO.

11.1 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.

11.2 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.

11.3 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.

11.4 In general, however, Basildon Academies' Trust staff 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 rarely appropriate 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 the LADO, to make similar judgements in relation to what information to share with other staff and the press.

11.5 Students 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 Services/the LADO where appropriate.

11.6 Senior, and sometimes other, staff may need to know the 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.

11.7 Where the Press are pursuing an issue, statements and interviews should not normally be given without first seeking advice from the LADO who will liaise with the lead agency – normally Social Services (Police if it is a criminal investigation). It may be advisable 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.

11.8 Finally, other Basildon Academies' Trust 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.

12. RECORDS

12.1 Documents related to child protection matters should be retained indefinitely, in a secure place by the Basildon Academies' Trust.

12.2 Papers relating to the disciplinary process should be retained on the employee's personal and confidential file in accordance with the Basildon Academies' Trust's disciplinary procedures.

12.3 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.

12.4 Where a student has made an allegation, a copy of the statement or record should be kept on that section of the student'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).

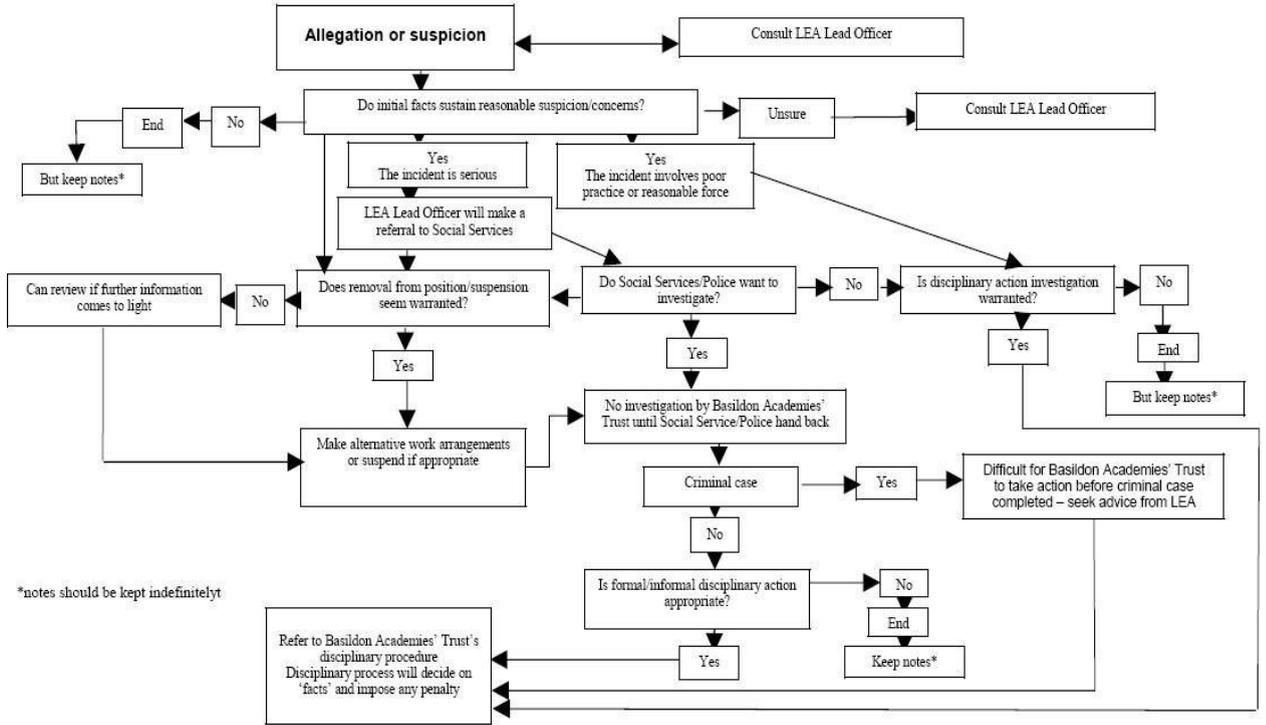
12.5 If there are related criminal or civil proceedings, records may be subject to disclosure and therefore no assurance can be given of confidentiality.

12.6 A referral must be made to the DBS (Data and Barring Service) if the employee has engaged in conduct that has harmed (or is likely to harm) a child, or if a person otherwise poses a risk of harm to a child.

APPENDIX A GUIDELINE FRAMEWORK

APPENDIX A

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



LEA Lead Officer is referring to LADO under new statutory guidance.

APPENDI

X B

ESTABLISHING INITIAL FACTS

Con
text

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 LADO, in the light of the following:

- normal duties (e.g. student or teacher away from expected location)
- environment (e.g. special events, trips)
- standards applied to the member of staff, with regard to the activity and circumstances in 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 student 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. 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 Basildon Academies' Trust 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 (eg 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 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 Services will chair the meeting, which will be minuted.
- The meeting will usually begin with the Social Services 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 eg Police or the Basildon Academies' Trust.
- 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 the Academies. The Strategy Meeting may make a recommendation to the Basildon Academies' Trust, but the decision remains the Basildon Academies' Trust's.
- Finally next steps will be agreed.
- Social Services and the Police may not consider that they need to investigate the matter, although they may still make a recommendation that the Basildon Academies' Trust should investigate/issue advice/undertake training for staff matter in which case the Basildon Academies' Trust 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 Services' 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 Basildon Academies' Trust.

APPENDIX D CRIMINAL CASES

1 Social Services/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 Basildon Academies' Trust to deal with under its own disciplinary procedures [See Section 11]. 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 Basildon Academies' Trust staff, not least in the time these cases can take to pass through the courts. Moreover, the impact of such cases on the students and employee(s) involved and the wider Basildon Academies' Trust 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 Basildon Academies' Trust 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 Basildon Academies' Trust 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 Services.

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 Basildon Academies' Trust 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 Basildon Academies' Trust 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 personnel 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 Such statements are released at the discretion of the Police and requests should be made in writing, clearly indicating the reasons the statements are required. The Police will be required to seek the permission of the individual (or parents in the case of children's statements). 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 the LADO and, where appropriate, legal services, in obtaining copies of statements. 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 Basildon Academies' Trust'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.

3 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 Services/the Police.

