

# HR & OD POLICIES

human resources and organisational development



## Handling Allegations Against Teaching Staff

## INDEX

INTRODUCTION	3
SCOPE	3
Core Principles	
INFORMAL STAGE	5
FORMAL INVESTIGATION	5
SUSPENSION	7
LINK TO OTHER PROCEDURES	7
UNFOUNDED AND MALICIOUS ALLEGATIONS	8

## 1. INTRODUCTION

All staff are in a position of trust and have a duty of care to the individuals they support or work with. Occasionally, however, a member of 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 the individuals and the need to protect the rights and livelihoods of those who work with children and vulnerable adults.

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 these groups are safe to do so and that those subject to the claims are treated fairly and supported.

Complaints against staff can come from a range of sources - members of the public, colleagues, parents, carers or other relatives of the individual.

Complaints may be about improper conduct or behaviour or allegations of professional misconduct, both on a personal or professional level.

All complaints, regardless of the source, will be treated seriously, investigated quickly and handled fairly and carefully to minimise disruption and the impact upon everyone involved. The outcome of the investigations into complaints will be handled under the appropriate procedure, as identified in **Section 2, Scope**.

It is important to note that, where required, child/adult protection and criminal investigation procedures will take precedence over this procedure. Where child protection may be involved the local social work child care team should be contacted. Where it appears that a crime may have been committed, the police should be contacted.

It is recognised that staff working within certain services are in a vulnerable position and complaints 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.

## 2. SCOPE

This procedure applies to all teaching employees of Aberdeenshire Council who are working within schools.

This procedure will be applied to all complaints against teaching staff received from pupils or carers and members of the public only. All complaints must be lodged with the Council's Feedback Team under the Complaints Handling Procedure. A

determination of whether or not a case is eligible for the Complaints Handling Procedure will be made by the Feedback Team.

Any allegations raised by a colleague will be progressed under the appropriate Aberdeenshire Council procedure (Grievance or Disciplinary).

An investigation undertaken as part of this procedure may feed in to other Aberdeenshire Council procedures, for example the Disciplinary Procedure, Bullying and Harassment Guidance, Work Performance Ability Procedure, SSSC Codes of Practice or other procedures as deemed appropriate.

## Core Principles

- Notwithstanding our duty to safeguard children/vulnerable adults, an employee who is the subject of a complaint should be treated according to acknowledged principles of justice and should be regarded as innocent until proven guilty.
- All complaints 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 complaint has been made should be informed of the details of the complaint including any allegations as soon as sufficient information is available.
- Employees against whom the complaint has been made may be accompanied by a trade union representative or colleague at any investigation meetings. In all cases 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, pupils and service users.
- In applying this process, the Council's legal duty under section 149 of the Equality Act 2010 shall have due regard to the need to:
  - (i) eliminate discrimination, harassment and victimisation;
  - (ii) advance equality of opportunity between those who share a protected characteristic and persons who do not share it; and
  - (iii) foster good relations between those who share a protected characteristic and persons who do not share it.

- Where the complainant remains dissatisfied with the response he/she receives regarding cases of Service failure or maladministration, he/she has recourse to the Scottish Public Services Ombudsman.

A [flowchart](#) demonstrates the process to be followed when a complaint is received.

### 3. INFORMAL STAGE

The Feedback Team will consider the complaint received under the Council's Complaints Handling Procedure. If as a result of their initial investigation, there are allegations made about an employee's behaviour or conduct, the ECS Service will be advised and the relevant HR Policies and Procedures will be applied. The Feedback Team will have no further involvement in the investigation of such an allegation, other than being informed of the conclusion of the investigation in order to inform the complainant. It should be noted that due to confidentiality for employees, the complainant will only receive a brief response stating that the matter is concluded and management actions have been taken as appropriate and in accordance with the Council's HR Policies and Procedures.

- As detailed in the Core Principles, all complaints will be investigated.
- Before progressing to a formal investigation, managers should approach the member of staff informally to seek a response to the complaint. It may be that information will be gathered to assist in determining whether or not to proceed informally or formally. This may include interviewing witnesses and gathering relevant documents. At this stage, there is no need to compile formal witness statements.
- In cases where the response at the informal stage fails to appropriately address the complaint, or where the nature of the allegation is such that an informal stage would be inappropriate, a formal investigation will be instigated.
- An assessment of risk in relation to the complaint will be made in order to ensure it is appropriate to apply this process.

### 4. FORMAL INVESTIGATION

The guidance outlined in both the SNCT Disciplinary procedures and the Council's Disciplinary Procedure for Teaching Staff should be followed. The key steps are outline below:

- An appropriate Investigating Officer will be appointed by the Senior Manager within the service. If within a school, a member of the SMT will be appointed as

Investigating Officer (IO). Where the allegation is against a DHT, the investigation will be undertaken by a Head Teacher; where the allegation is against a Head Teacher, the investigation will be undertaken by a Quality Improvement Officer.

- The nature of the allegation will be confirmed to the employee in writing.
- 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 representative 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 and conclusions within 5 working days of the conclusion of the investigation.
- The Investigating Officer will provide the report to his/her line manager who 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 employee will be informed in writing as to the outcome by the Senior officer who has received the Investigation Report.
- Feedback will be provided to complainant including the right in certain cases to refer to the Scottish Public Services Ombudsman.

## 5. SUSPENSION

- There will be a presumption that no employee will be considered for suspension unless the risk assessment deems consideration necessary.
- Suspension must not be used as an automatic response to a complaint. 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 disciplinary investigation and any subsequent action is undertaken. A suspension is not an assumption of guilt. Where the nature of the allegations would make a period of suspension appropriate to protect any individual involved, advice must be sought from a member of the Education DMT and HR. 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 management and HR are contacted as soon as possible thereafter.
- Guidance is available for ensuring that any employee being suspended is fully supported at the time he/she is told, and in the hours and days that follow.
- Any suspension will be reviewed on a regular basis to ensure that it is not unnecessarily protracted.
- In some circumstances it might be more appropriate to remove the member of staff against whom the complaint 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/service or in another location, rather than to suspend.

## 6. LINK TO OTHER PROCEDURES

Where the Senior Officer finds the complaint/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.

## 7. 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 complaint was made with malicious intent, and where this can be established, appropriate action should be taken against the person making the allegation. 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 person's age and understanding.
- Where an allegation which is determined to be malicious has been made by a parent/career or member of the public, advice may be sought from the Legal Service on appropriate action.



# Handling Allegations Against Teaching Staff

## Index of Documents

### Procedure

<b>Revision Date</b>	<b>Previous Revision Date</b>	<b>Summary of Changes</b>
06-09-2016	-	Creation of all documents