POLICY FOR	**SAFEGUARDING and MANAGING ALLEGATIONS AGAINST STAFF**
PERSON RESPONSIBLE	**FEDERATION DIRECTOR OF INCLUSION**
DATE REVISED	**NOVEMBER 2010**
DATE LAST REVIEWED/GOVERNOR HUMAN RESOURCES TEAM	**MARCH 2011**

Training and Information Available

- All staff in school, including non-teaching staff and voluntary helpers, should be aware of the signs and symptoms of abuse. All staff will have training on the signs and symptoms of abuse and how to report incidents and information relating to child protection in the Federation as part of their induction process.
- A reference leaflet is pinned to the Staff Room Notice board.
- All staff have a staff handbook which contains details of the safeguarding procedures.
- Notices around the schools inform staff and students who the Designated Child Protection Co-ordinators (DCPC) are in school.
- Every trained DCPC in the Federation will have additional information and reference materials available for staff should they wish to view or discuss safeguarding in more depth.
- Each school is responsible for providing staff with training in the area of child protection and safeguarding and ensuring regular training updates.

Procedures and Record Keeping

- Any incident or behavioural change in a child that gives cause for concern or a disclosure from a child should be recorded on an incident form, copies of which are available in each school (see individual school's handbook) and an electronic version is available in the school staff public drive on the school network. **Staff should never promise a child to keep information confidential.**
- It is important that what is recorded is kept factual and includes reported speech where appropriate; opinion should not be given unless there is some form of evidence base which can also be quoted.
- The sheet must be signed, dated and timed, and given immediately to the DCPC. **Details of any concerns or disclosures must be passed to the DCPC on the day that the concern or disclosure is noted.**
- The DCPC, possibly in consultation with the school Principal, if it is felt

appropriate, will make the decision whether to refer a child or not under the KCC procedure.

- If a referral is made to Social Services it is reported on a confidential Referral Sheet. These sheets are kept in the Child Protection manual in a locked filing cabinet together with other relevant information about the child (reports from Case Conferences, etc.)
- Any concerns that involve allegations against a member of staff should be referred immediately to the school principal, who will contact the Area Children's officer to seek advice and to initiate the CP referral. **All staff need to be aware that it is a disciplinary offence not to report concerns about the conduct of a colleague that could place a child at risk**. **When in doubt – consult.**
- If a member of staff is informed that there are indecent images on a mobile phone, camera or computer in possession of a student these images should only be viewed by the Federation ICT Strategy Manager who has permission to view and deal with this (Federation ICT Strategy Manager). Under no circumstances should staff view these images themselves. Once the material has been assessed by the ICT technician he will follow the correct procedures, alerting the police if necessary.

The Child Protection Register

The school lead DCPC will make sure that the relevant people are aware of children whose names are on the Child Protection Register. These children must be monitored very carefully, and the smallest concerns should be recorded on an incident sheet and passed immediately to the relevant DCPC.

Code of Practice

- All school staff should take normal precautions not to place themselves in a vulnerable position with relation to child protection.
- It is always advisable for interviews or work with individual children or parents to be conducted in view of other adults.
- Physical intervention should only be used when the child is endangering him/herself or others and such events should be recorded and signed by a witness. Staff should be aware of the school's own Behaviour Management Policy and any physical interventions must be in line with agreed policy.

Supervision and Support

- The DCPCs in the schools are available for all staff and parents to give advice and support, and they are also available to put staff and parents in touch with outside agencies for professional support if they so wish.
- All school staff should work towards providing an environment and atmosphere for children to enable them to feel safe to talk. However**, staff should never promise a child to keep information confidential.** It must be explained that they have certain duties to help keep that child safe, and they may need the help of other adults to do this.

MANAGING ALLEGATIONS AGAINST STAFF

This is the KCC policy adopted by the governing body in December 2010

1. INTRODUCTION

1.1 The schools will take appropriate action to ensure that an investigation conducted under this procedure will not be confused with any statutory investigation undertaken by Children's Social Service or the Police. **Internal management investigations should only be pursued once the Children's Social Services and Police have concluded their involvement or it has been deemed unnecessary to refer the matter to social services at the initial consultation with the LAs Children's Safeguards Team due to the allegation not reaching the threshold of abuse as defined by the DoH. In exceptional circumstances it may be possible for a statutory investigation and an internal investigation to run concurrently but this should only be in the most severe of cases with the prior agreement of the agencies involved.**

1.2 This procedure is informed by Appendix 5 'Working Together to Safeguard Children' (2010) and reinforces DfES Guidance 'Safeguarding Children and Safer Recruitment in Education' (2007): and also considers the principles of the NEOST Guidance as referenced in Education Employers Bulletin No: 467. In addition, amendments to the Education Act 2002 (Section 175) and Section 11 of the Children Act (2004) now place a statutory responsibility on LAs and governing bodies to ensure that schoolss have procedures in place for safeguarding and promoting the welfare of children. This Procedure has been agreed and promulgated by representatives of Kent County Council, agency partners on Kent Safeguarding Children Board, and the following trade unions: NUT, NAHT, SHA, PAT, ATL, UNISON and GMB.

1.3 Employees should also be aware that the Sexual Offences Act 2003 now makes it an offence for those in a position of trust to have a sexual relationship with a young person between the ages of 16 and 18 years who is currently being cared for or educated by the individual.

2. KENT CHILD PROTECTION PROCEDURE

2.1 A copy of the Kent Safeguarding Children Board Safeguarding Procedures which replaced Kent Child Protection Committee's Child in Need/Child Protection Procedures (April 2001) is available to any member of staff, on line at www.kscb.org.uk .

2.2 Employees working in schools have a statutory responsibility to report all allegations of child abuse and to alert others where appropriate if they suspect that child abuse may have occurred. The specific arrangements for reporting such concerns are set out in detail in section 4 of this procedure. A referral to Social Services will ensure that the statutory agencies can fulfil their child protection responsibilities.

2.3 If an allegation of abuse is made against a member of staff, immediate consultation is required with the LAs Area Children's Officer (Safeguarding)

who fulfils the operational LADO function as outlined in *Working Together to Safeguard Children (2010)*. **This consultation must take place prior to any form of investigation being undertaken by the school or service.** Any allegation against an employee should lead to careful consideration of the possibility of abuse and of a referral being made of any concerns to the statutory agencies if it is considered that the threshold of significant harm has been reached and a person who works with children has:

- behaved in a way that has harmed, or may have harmed a child
- possibly committed a criminal offence against or related to a child; or
- behaved towards a child or children in a way that indicates s/he is unsuitable to work with children.

2.4 It is the responsibility of the Governing Body and the School Principal to ensure that all employees are aware of their responsibility to report any allegation or possible concern of a child protection nature. Failure to report may (a) put a child at risk and (b) imply a breach of the employee's contractual duty. Staff must be aware of this procedure, understand their responsibilities and know where in the school a copy of the procedure is to be found. In this case on the "p" drive.

2.5 A child who reports that he/she may have been abused by an employee of the school/service, must be carefully listened to in all circumstances. 'Listened to' means just that; on no account should suggestions be made to a child as to alternative explanations for his/her worries; neither should any member of staff attempt to question the child as part of any investigation, as this could lead to primary evidence for any future prosecution being compromised.

2.6 Staff cannot promise total confidentiality to pupils who disclose allegations. Staff should make this clear to children who approach them, whilst also offering reassurance that they have a right to be heard and that their allegation will be taken seriously.

2.7 All Kent County Council employees, in addition to those employed to work in schools have a duty to assist the statutory child protection investigation agencies by ensuring any possible allegation or concern is reported to an appropriate person and by co-operating with any investigative process, if/when required.

2.8 Employees must be aware of the need to avoid impeding an investigation, e.g., by publicising the allegation or providing the opportunity for evidence to be obscured or destroyed. In cases where the Police or the Crown Prosecution Service have decided against a criminal prosecution, staff employed in Kent schools must continue to co-operate fully with any internal disciplinary investigation that may follow.

2.9 All risk assessments and responses to concerns undertaken as part of this procedure will be conducted in a reasonable, proportional and transparent manner. The procedure will be applied fairly and transparently in line with KCC's Equality of Opportunity Policy and Disability Discrimination Legislation.

3. ROLE OF THE RESPECTIVE AGENCIES IN AN INVESTIGATION

3.1 There will be three possible types of investigation:

1) By Social Services and the Police under Section 47 of the Children Act 1989
2) By the Police under criminal law, and:
3) By the school in line with staff disciplinary procedures.

3.2 Any disciplinary process should be clearly separated from the child protection or criminal investigations. The disciplinary process may be informed by these other investigations and in some circumstances the child protection agencies might decide to make a **recommendation** about suspension or other protective action as a result of a strategy discussion. The child protection or criminal investigation has different objectives from the disciplinary procedure and the two processes should not be confused.

3.3 **<u>The Role of Children's Social Services</u>**

The Children's Social Services has a duty to investigate cases where there is reasonable cause to believe that a child has suffered, or is likely to suffer, significant harm. On receiving a referral relating to an allegation against a member of staff which reaches the threshold of abuse, Social Services will call an initial strategy meeting in line with KSCB procedures. This meeting will define whether a joint investigation is necessary under section 47 of the Children Act 1989.

At any point during a subsequent investigation, Social Services and the Police may agree that the investigation be terminated. This will either be because:

1) Enquiries lead them to a conclusion that the child has not suffered the alleged harm.
2) They are satisfied, where harm has occurred, that there is no likelihood of it recurring.

Such a decision will be ratified at a final strategy meeting with recommendations for further action if appropriate. (ie conducting an internal disciplinary investigation)

It is important to recognise that the purpose of the child protection investigation is to determine, on the **balance of probability** whether a child has suffered significant harm (abuse) and, if so, to eliminate the likelihood of further abuse.

The staff undertaking child protection investigations on behalf of the Social Services are trained and experienced in doing so. They will handle cases sensitively and professionally, so that a thorough, independent investigation can be undertaken.

3.4 **<u>The Role of the Police</u>**

The Public Protection Unit of the Kent Police comprises a team of officers specialising in child protection. The officers are specially selected and trained

for working with vulnerable persons and they will undertake most interviews with children in line with Achieving Best Evidence procedures.

In the event of an allegation being made against a member of staff, it is possible that they will be interviewed and/or arrested by Police Officers. Normally the interview and/or arrest will not take place on school premises.

The Police are responsible for investigating allegations which indicate that a crime has been committed. The Crown Prosecution Service will then take any decision on whether or not to formally prosecute.

3.5 The Role of the Local Authority

The Children's Safeguards Team (Education) are responsible for managing child protection issues within the Education Division and any allegations against a member of staff must be reported immediately to the **A**rea **C**hildren's **O**fficer (Safeguarding). This consultation will determine whether the allegation reaches the threshold of **significant harm** to justify a referral to social services. The ACO may wish to consult with colleagues in Social Services if there is any doubt about the need to refer the matter.

If the consultation discussion determines that the allegation does meet the criteria for referral to social services as a child protection concern, the ACO will provide support to the school/service in making the referral and throughout the subsequent process as required.

The ACO will attend any strategy meetings that are convened and liaise closely with the school/service and the Personnel Consultant representing the Authority or the school. The ACO will also ensure that other key LA officers are informed according to the circumstances of the case and this may include the Press Office in certain circumstances likely to attract media interest.

Should it be determined at the initial point of consultation with the ACO that the allegation does not meet the threshold for a child protection referral to social services, then the ACO will advise on further action that may be taken by the school/service in investigating the matter internally in line with the staff disciplinary procedures. This will again require close liaison with the personnel provider. Children's Safeguards staff would not normally be involved in an internal management investigation unless the role of expert witness or investigating officer was specifically commissioned by the school or service, particularly if it was necessary to interview children for example. In such circumstances the roles need to be clearly defined in terms of objectivity and impartiality.

3.6 The Role of the School

The school has a duty to co-operate fully with an investigation undertaken by the Police and Social Services and the LA's Children's Safeguards Team will provide support throughout this process. School staff have a key role in reassuring and supporting the child who is the alleged victim, while support for the member of staff who is the subject of the allegation will be facilitated in line with the staff disciplinary process.

The task of investigating the allegation under disciplinary procedures is set out below and is separate from the investigations conducted by Social Services and the Police.

Under no circumstances should the school initiate an internal management investigation into an allegation against a member of staff until a consultation has taken place with the LAs Children's Safeguards Team or Social Services directly.

The school has a statutory duty to comply with Child Protection Procedures and this will include ensuring that all staff are familiar with the process and understand their responsibilities to report a concern. **When in doubt – consult.**

4. REPORTING AN ALLEGATION OR A CONCERN

4.1 When a complaint of abuse is made against an employee on behalf of a child there should be immediate consideration of whether a child or children is/are at risk of significant harm and in need of protection.

4.2 Any employee who becomes aware of a possible allegation or concern of a child protection nature must take immediate steps to ensure the matter is reported to the School Principal or the school's Designated Child Protection Co-ordinator. In the event that neither the School Principal or the DCPC is available then the matter should be reported to the Executive Principal or the School Principal in the other school. Individuals with concerns must be encouraged to report this as quickly as possible and to the most senior person available at the time. An investigation may be impeded if a concern is reported late and/or is communicated through several individuals before the School Principal or DCPC, and it is important that the school establishes at this stage who the lead contact will be for liaison purposes.

4.3 In the event that the allegation or concern involves the DCPC then the matter must be reported directly to the School Principal. Should the allegation or concern involve the School Principal or Executive Principal then the matter must be reported to the DCPC who must also refer the matter to the Chair of Governors. At all times any report of any allegation or possible concern will be dealt with in the strictest confidence, and if necessary staff can raise concerns directly with the Area Children's Officer (Child Protection) with full protection under the Public Disclosure Act 1998 ('Whistle-blowing').

4.4 In all cases, the School principal (or the DCPC in cases where the School Principal or Executive Principal is involved), must have an immediate preliminary consultation about the allegation or concern with the Area Children's Officer (Safeguarding) who will advise on further action in accordance with this procedure, if appropriate. This is not the beginning of an investigation, but part of the basic information gathering process. This advice will include who, if anyone, should be made aware that an allegation or concern has been raised.

4.4 The reporting member of staff, i.e., School Principal, DCPC, individual employee or governor must also seek the advice of their Personnel Services Provider regarding issues of process, responsibilities and communication

4.5 It is important that the member of staff reporting the concern acts quickly. Establishing whether an allegation warrants further investigation or consultation is not the same as forming a view on whether the allegation is to be believed. **The School Principal or any other employee or governor to whom an allegation has been reported**, **is not expected to investigate the allegation, or interview pupils, but to assess, after consultation with the Area Children's Officer (Safeguarding) how the matter will proceed. Confidentiality must be maintained throughout this stage in order that any subsequent investigation is not prejudiced and that the interests of all parties are protected.**

4.6 Where the allegation relates to the use of physical intervention to restrain a pupil (Section 93 of the Education and Inspections Act 2006 enables school staff to use such force as is reasonable to keep a situation safe), the School Principal should consult with the Area Children's Officer (Safeguarding) in the first instance as this may be appropriately managed within the school. It is important for this consultation to take place to demonstrate that the school has acted in an open and transparent manner in establishing if the allegation meets the threshold for referral. An allegation of assault beyond the use of reasonable force however, would need to be referred to social services as a child protection matter. (DCSF Guidance 'The Use of Force to Control or Restrain Pupils' was issued in accordance with Section 93 Education and Inspections Act 2006 which supersedes Section 550A of the Education Act 1996 and DfES Circular 10/98).

5. CONSIDERING WHETHER SUSPENSION IS APPROPRIATE

5.1 The suspension of an employee, particularly in situations of potential child protection allegations will have a significant impact on the individual and therefore it is essential that the facts of the case, as they are known and alternative courses of action are carefully considered in deciding whether to suspend. The specific arrangements for the suspension of staff are set out in the school's/KCC disciplinary procedure (reference document: Discipline at Work 2003), but it should be recognised that suspension is a neutral act to protect the interests of both parties and not an assumption of guilt. It is also essential that the Disciplinary Procedures are followed in terms of providing appropriate support to the individual throughout the period of suspension.

5.2 The decision to suspend is taken by the Executive Principal, School Principal and/or the Governing Body and not by the Police or Social Services. However, Social Services, in collaboration with other agencies, may advise the Directorate and the school of any action recommended to ensure the protection of children, protection of employees and safeguarding of information

5.3 Being suspended or asked to refrain from work 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, and may feel particularly isolated and vulnerable.

5.4 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.

5.5 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.

5.6 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. 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 School Principals as well as other staff. Suspension should only follow after discussion with the lead officer. The decision to suspend remains the responsibility of the Executive Principal, School Principal and governing body (for schools) and the relevant Director (LA staff).

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

- The nature of the allegation
- Assessment of the presenting risk
- The context in which the allegation occurred
- The individual's contact with children
- Any other relevant information
- The power to suspend
- Alternatives to suspension

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

5.7 Alternatives to suspension

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

- 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.

5.8 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 School Principal to ensure that appropriate support is available to the member of staff. In the case of an allegation against the Executive Principal or School Principal, 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: and
- How links will be maintained with the school so that the staff member is kept informed of other matters occurring within the school.

5.9 Confidentiality

The School Principal, Chair of Governors (or nominated governor) and LA officers have a responsibility to safeguard confidentiality as far as is possible. Sensitive information must only be disclosed on a need to know basis with 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.

5.10 Planning and Recording

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 the support available for the child.

It is important for the LA lead officer to keep a record of the actions taken in the course of 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.

6. DISCIPLINARY INVESTIGATION

6.1 No action under the disciplinary procedure shall be taken in circumstances which may interfere with the child protection investigation. Child protection investigations shall be treated as paramount and any further action under disciplinary procedures may therefore have to await full completion of the child protection and criminal investigations, but will be undertaken as soon as possible.

6.2 Once any child protection investigation has been completed and the matter is not proceeding to court, a decision should be taken by the appropriate person in the school, as whether to investigate under the disciplinary procedures. The school will need to consult with its Personnel Provider prior to reaching a decision on this. In addition the school must seek advice from the Area Children's Officer (Child Protection) in all cases if the safeguarding of children's welfare remains an issue within the school.

6.3 At the request of the Governing Body/Assistant Director, a nominated representative may be appointed to conduct the investigation where it is inappropriate for the School Principal or other member of the school's leadership group to do so, e.g., where the School Principal's knowledge might prejudice a fair hearing, where he/she is implicated or when the Governing Body believes it is in the best interests of the school. The investigation will be undertaken in accordance with the school's disciplinary procedure (see separate document on P drive).

6.4 The position of the employer, in coming to a reasonably held view is not analogous with the decision to be made by a criminal court. The employer is able to come to a reasonably held view **'on the balance of probability'**. The disciplinary investigation must gather evidence objectively establishing the facts where possible and follow the principles of fairness, reasonableness and natural justice.

6.5 Where allegations of child abuse are received against an employee at the school, the Area Children's Officer (Child Protection) will take responsibility for ensuring that relevant information, as defined by the Investigating Officer, resulting from a child protection investigation is made available to the school's/service Personnel Consultant and the School principal (where appropriate), in order to inform a decision about a possible disciplinary investigation.

6.6 Evidence derived from the child protection investigation or criminal investigation (e.g., statements, exhibits, video-recorded interviews with children) may be available for use in subsequent disciplinary proceedings, particularly where the witnesses are the same. If access is sought to such material a formal application should be made via the Children's Safeguards Team to Kent Police in line with the agreed protocol. (It should be noted that the Branch Crown

Prosecutor will be cautious about releasing any prosecution material until the criminal proceedings have been concluded and will only consider doing so upon a valid request being made in writing.)

6.7 Where no criminal prosecution is pending or intended, advice from the Kent Police Solicitor's Department on the release of material should be sought through the Children's Safeguards Team who have established a protocol with the Kent Police on behalf of the LA to ease this process. Witnesses may include Police Officers and social workers who have interviewed the child/ren. Social Services should usually release the minutes of strategy meetings and, where necessary, provide additional reports. (Protocol for release of evidence is included in Appendix.)

6.8 Whether it is appropriate to call children as witnesses will depend on their age, understanding and capability. However, the attendance of children at any hearing would be in extremely unusual circumstances and will only occur following careful consultation with all interested parties including the parents of the child/ren.

6.9 If a decision is taken to proceed with a disciplinary investigation, the employee should be informed, in writing, as required under the disciplinary procedure. It is advisable to confirm this position in a meeting with the employee and their representative.

6.10 If a decision is taken not to proceed with a disciplinary investigation, the employee should be invited to a meeting with a union representative or workplace colleague, to explain the circumstances of the decision and confirm this in writing.

6.11 Those involved in the investigation of the complaint or the continuing management of the situation at the school cannot hear consequent disciplinary cases, since they may receive information that may prejudice a fair hearing of the complaint. Governors who are to hear disciplinary appeals must not be involved in the investigation of the complaint or the disciplinary hearing.

6.12 The school will need to make appropriate arrangements to notify the parent/guardian of the child/ren of the outcome of the investigation/hearing and will take advice from the Personnel provider and the Area Children's Officer (Safeguarding) regarding the nature of information that can be disclosed.

6.13 Time-scales

Appendix 5 of 'Working Together to Safeguard Children' (2010) lays down indicative time-scales within which the process should be concluded. It is recognised that these will present a challenge to all professionals but it is recommended that every effort should be made to comply with the following:

1. If the nature of the allegation does not require formal disciplinary action, the Headteacher should institute appropriate action within **3 working days.**

2. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within **15 working days.**

3 Where further investigation is required to inform consideration of disciplinary action, the School Principal and Schools Personnel Adviser should discuss who will undertake the investigation. In such cases, once nominated, the investigating officer should aim to provide a report to the employer within **10 working days.**

4 The decision on whether a disciplinary hearing is needed should be made within **2 working days** of the employer receiving the report.

5 A disciplinary hearing should then be convened within **15 working days**

7. REFERRAL TO THE INDEPENDENT SAFEGUARDING AUTHORITY (ISA)

7.1 The Secretary of State's powers to bar or restrict a person's employment are contained in section 142 of the Education Act 2002. The relevant regulations, setting out the procedure to be followed, are the Education (Prohibition from Teaching or Working with children) Regulations 2003 (SI 2003/1184). List 99 has now been replaced by the ISA Barring list under the Vulnerable Groups Act 2006.

A relevant employer, or agent (eg a teacher supply agency), is required to provide a report to the ISA where they cease to use a person's services, or a person is dismissed or resigns before 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. **A compromise agreement does not override the statutory duty to report the matter.**

These reporting arrangements apply to anyone who works in a school, including volunteers, regardless of what they do. They also apply to staff convicted of a criminal offence against children outside the work setting, when notification may be through the police.

Anyone subject to a direction under section 142 of the 2002 Act given on the grounds that they are unsuitable to work with children is also disqualified from working with children. 'Work' includes people in unpaid employment, employed under contract, people undertaking work experience and volunteers.

Further information on the Independent Safeguarding Authority and the process of referral to the barring list can be found at www.isa-gov.org.uk/

8. RETENTION OF RECORDS

8.1 The Information Commissioner Code of Practice: Employment Records 2002 states that **"records of allegations about workers who have been investigated and found to be without substance should not normally be retained once an investigation has been completed. There are some exceptions to this where for its own protection the employer has to keep a limited record that an allegation was received and investigated, for**

example where the allegation relates to abuse and the worker is employed to work with children or other vulnerable individuals."

8.2 Records of investigations into alleged offences against children must be maintained, in order to identify patterns of concerns. A factual record of the details of all allegations and a written record of the outcome, will be retained. This information will be held by the Children's Safeguards Manager on behalf of the LA in line with the responsibilities of the LADO function.

8.3 The employee and/or his/her representative will be informed that such records exist, and will be able to seek disclosure within the parameters of the Data Protection Act by putting their request in writing through the appropriate channels.

8.4 An 'outcomes' pro-forma will be requested from the School. The member of staff who was the subject of the allegation has the opportunity to comment as part of the 'outcome' process. This record will be retained on the individual's personnel file held by the employing body within the terms of the schools/LA Disciplinary Procedures. Such records will be retained in line with DCSF Guidance which states *'Until the person has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer'* - Chapter 5 Section 10 'Safeguarding Children and Safer Recruitment in Education (2007).

8.5 Where a pupil has made an allegation, a copy of the statement or the record made of it, should be kept on the section of a pupil's child protection file, which is not open to disclosure, together with a written record of the outcome of the investigation. If there are related criminal or civil proceedings, records may be subject to disclosure; and, therefore, no assurances can be given on confidentiality.

9. GOOD PRACTICE GUIDELINES

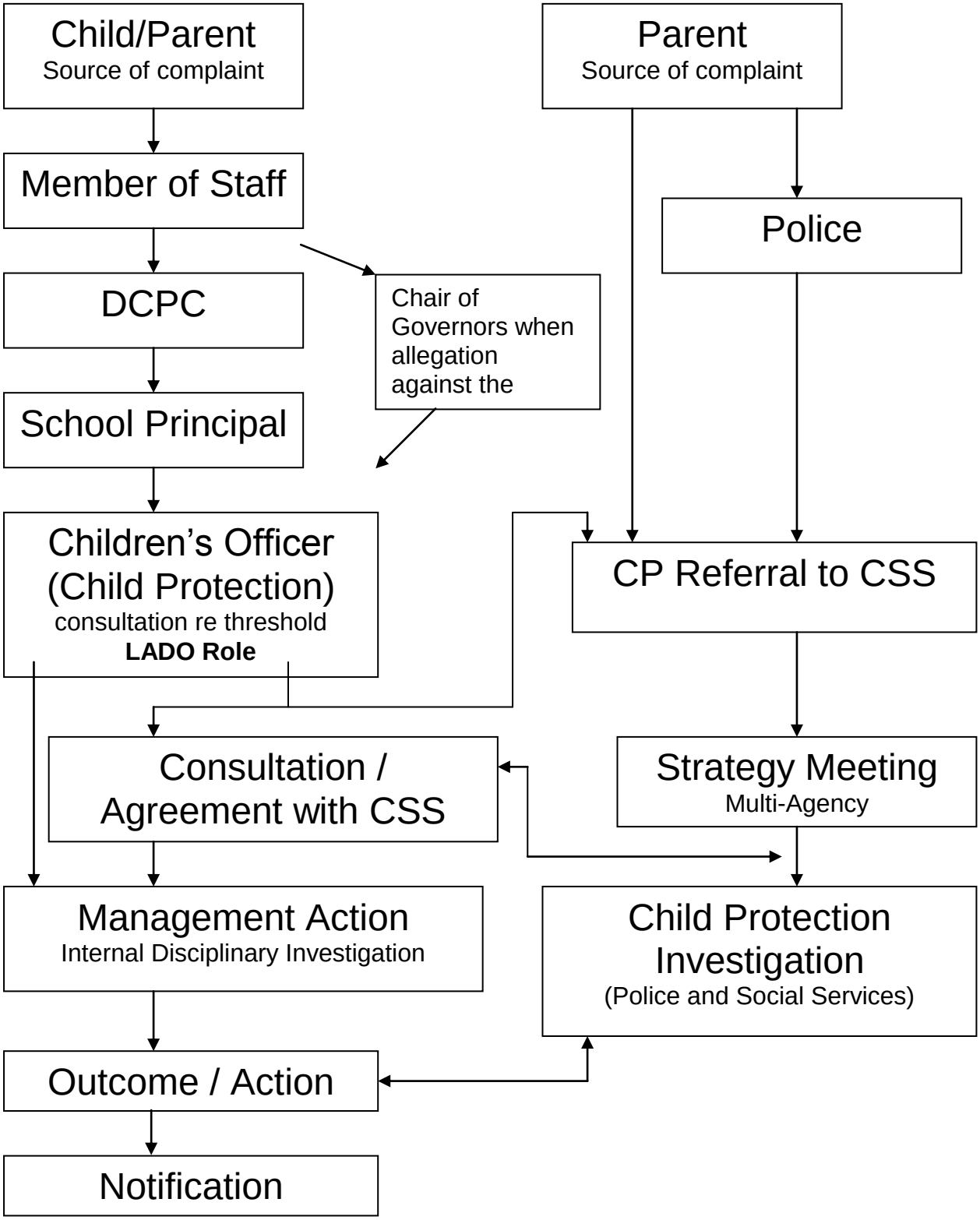
9.1 All schools within the Education Division are advised to establish a Code of Practice for all staff, which considers the following areas.

- Out of school contact with pupils.
- Physical contact with pupils.
- Personal care of pupils.
- Relationships and attitudes.
- Extra curricular activity.
- Reporting of incidents.
- Risk Assessment and lone working
- Use of e-mail and mobile phones

'**Guidance for Safe Working Practice for Adults who work with Children and Young People 2007'** (published by the Allegations Management Advisors network on behalf of DCSF). This document can help to inform practice and can be accessed via clusterweb (www.clusterweb.org.uk).

10. FLOW CHART

CHILD PROTECTION –
ALLEGATIONS AGAINST STAFF



J. Lancaster 4.11.10

CHILDREN, FAMILIES & EDUCATION DIRECTORATE

Protocol Agreed with Kent Police for the Release of Evidence

1. In line with the requirements of DfES Guidance**: Working Together to Safeguard Children (2006)** the local authority has agreed a protocol with Kent Police for the release of evidence to inform Internal Disciplinary processes following the conclusion of Police involvement in the case.

2. "*Wherever possible the Police should obtain consent from the individuals concerned to share the statements and evidence they obtain with the schools for disciplinary purposes. That should be done as their investigation proceeds rather than after it is concluded. That will enable the Police to share relevant information without delay and the conclusion of their investigation or any court case*". (DfES 2006:244) The release of such evidence is vital to inform disciplinary investigations and to avoid witnesses, particularly children, having to be interviewed again.

3. To ensure that a consistent format is applied it has been agreed that all requests for the release of evidence should be channelled through the Children's Safeguards Team who provide support and guidance to schools whenever an allegation is made against a member of staff. This will avoid Kent Police being approached by a variety of schools. Chairs of Governing Bodies or Personal Advisers who would need to be validated before evidence is released.

4. Once the evidence has been received by the Children's Safeguards Manager (LADO) he will liaise closely with the School and Personnel Provider to ensure that information is shared appropriately.

5. In cases where statements have been taken from children via video recording in line with procedures for Achieving Best Evidence, a transcript of the recording prepared for court will be provided. In cases that do not proceed to court, however, it is unlikely that a transcript will have been taken. Under these circumstances it is unlikely that the video evidence will be released, as disclosures may be evident that have no bearing on the disciplinary investigation being undertaken. In such cases Kent Police have agreed to provide a summary of the evidence that is relevant to the disciplinary investigation.
   It is recognised that this will not constitute primary evidence, but such information from Kent Police should suffice to inform a disciplinary process where the burden of proof is based on "balance of probability".

6. Information shared must be treated in the strictest of confidence and should only be made available to those involved in the disciplinary process.

Kel Arthur
Children's Safeguards

Date

DCI Isobel Gibson
Detective Inspector PPU
Kent Police

Date

J. Lancaster 4.11.10

CHILDREN, FAMILIES & EDUCATION DIRECTORATE

CHILDREN'S SAFEGUARDS

To: DCI Isobel Gibson
PPU - Force Headquarters, Sutton Road, Maidstone, Kent, ME15 9BZ

From: Kel Arthur –Children's Safeguards

Date:

It is understood that:

A Kent Police have undertaken a criminal investigation into the conduct of a member of staff for whom Kent County Council now wish to undertake an internal disciplinary investigation.

B Consent has been sought from the victim and witnesses to release their statements to KCC.

C Kent Police have concluded their criminal investigation.

The Children's Safeguards Policy and Standards Manager, on behalf of KCC now seeks the disclosure of witness statements and / or ABE Video interviews taken by Kent Police for the sole purpose of use in the internal disciplinary investigation into the conduct of the member of staff. KCC understands that Kent Police policy N21 Child Protection, Clause 9 specifically deals with such a request.

Please accept this pro-forma as a formal request for the release of victim and witness statements and / or crime reports as appropriate

REQUEST FOR RELEASE OF EVIDENCE

Name of Victim/Complainant/Witness: ..... **Date of Birth:** .....

Date of Complaint/Allegation: .....

Name of Accused (member of staff): ..... **Date of Birth:** .....

Home Address: .....

.....

.....

Name and Address of Employer (school or LA service): .....

.....

C.A.I.U Officer: _____

Police Area Office: ..... **Tel No:** _____

Social Worker (where appropriate): ..... **Tel No:** _____

SSD Area Office: ..... **Tel No:** _____

Children's Officer (Child Protection): ..... **Tel No:** _____

School's Personnel Adviser Making request for release of evidence ..... **Tel No:** .....

Type of Investigation: .....

.....

Date of Final Strategy Meeting (where applicable): .....

Outcome of Police Investigation: .....

.....

Evidence Requested (please tick)

1 Crime Report ☐

2 Initial contact (STORM record) ☐

3 Witness statement (victim) ☐

4 Suspect interview ☐

5 In the absence of above a summary report provided by the Police ☐

Please be assured that the information provided will be treated in the strictest of confidence and will not be used without the prior consent of Kent Police and the witness providing the information.

Thank you for your co-operation in this matter.

Kel Arthur
Safeguarding Policy & Standards Manager
Room 2:64
Sessions House
County Hall
Maidstone Kent ME14 1X

11 (ii) OUTCOME OF ALLEGATION MADE AGAINST A STAFF MEMBER

Explanatory Statement

This statement is made in accordance with the Safeguarding Children in Education Guidelines: Dealing with Allegations of Abuse against Teachers and Other Staff. (Para 5.1, safeguarding Children in Education and Safer Recruitment, 1st January 2007.

Under Paragraph 10, Record Keeping, there is a requirement to keep clear and comprehensive summary of allegations, **how the allegation was followed up and resolved, and a note of any action taken and decision reached.** This should be kept on an employee's confidential personnel file, and a copy provided to the person concerned.

The purpose of this record is to enable accurate information to be given in response to any future request for a reference if the person has moved on. It will also provide clarification in cases where a future CRB Disclosure reveal information from the police about an allegation that did not result in a criminal conviction. It will also help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.

The record should be retained at least until the person has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

Name: **Date of Allegation:**

School:

Summary of Allegation made:

How Allegation was followed up:

Outcome of Management investigation:
(ie: words of advice, further training, disciplinary procedure)

Action taken and decisions reached:

Employee comments:

Signature……..…… Date: ……

Signature and status of person completing this form :

…….

Please print name : ……

<u>Definitions</u>:

Substantiated - A substantiated allegation is one which is Supported or established by evidence or proof'

Unsubstantiated – An unsubstantiated allegation is not the same as a false allegation. It simply means that there is insufficient identifiable evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.

Unfounded - This indicates that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances. For an allegation to be classified as unfounded, it will be necessary to have evidence to disprove the allegation.

Deliberately invented or malicious - This implies a deliberate act to deceive. A malicious allegation may be made by a pupil following an altercation with a teacher or a parent who is in dispute with a school. For an allegation to be classified as malicious, it will be necessary to have evidence, which proves this intention.

Please return this form within two weeks of concluding your investigation to:

Your Area Children's Officer

Form sent: