

Procedures Manual

04.17.01 **MANAGING ALLEGATIONS OF ABUSE AGAINST PEOPLE WHO WORK WITH CHILDREN OR THOSE IN POSITIONS OF TRUST (WHISTLEBLOWING)**

PURPOSE To provide staff with the knowledge of the process of revealing child protection allegations

SCOPE All staff and students undertaking work experience

RESPONSIBILITY All staff

PROCEDURE

Summary of Process

Allegation made to West Suffolk College

1. Allegations should be reported to the Principal immediately unless the allegation is about the Principal, in which case it should be reported to the Local Authority Designated Officer (LADO) who will inform the Chair of Governors immediately.
2. The allegation should not be investigated by the College, at this stage.
3. The Principal/Chair of Governors should report the allegation to the LADO the same day (*details of LADO are set out in Appendix 1*).

Allegation made to the Police or Children and Young People's Directorate (CYP)

4. If an allegation is made to the police, the officer who receives it should report it to the force designated liaison officer (see Appendix 1) without delay and the designated liaison officer should inform the LADO straight away. Similarly, if the allegation is made to CYP the person who receives it should report it to the LADO without delay.

Initial consideration

5. The LADO will discuss the matter with the Principal/Chair of Governors and obtain further details of the allegation and the circumstances in which it was made.

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6. The LADO will immediately refer the allegation to the CYP Safeguarding Manager and ask for a strategy discussion to be convened as soon as possible.
7. The LADO and Principal/Chair of Governors should be included in the strategy discussion.
8. Principal/Chair of Governors, in consultation with LADO consider whether suspension is appropriate – see 7.1 - 7.5.

Cases subject to Police investigation

9. The police will aim to complete their enquiries as quickly as possible and will set a target date for review of progress. Wherever possible this should take place no later than 4 weeks after the initial strategy discussion.

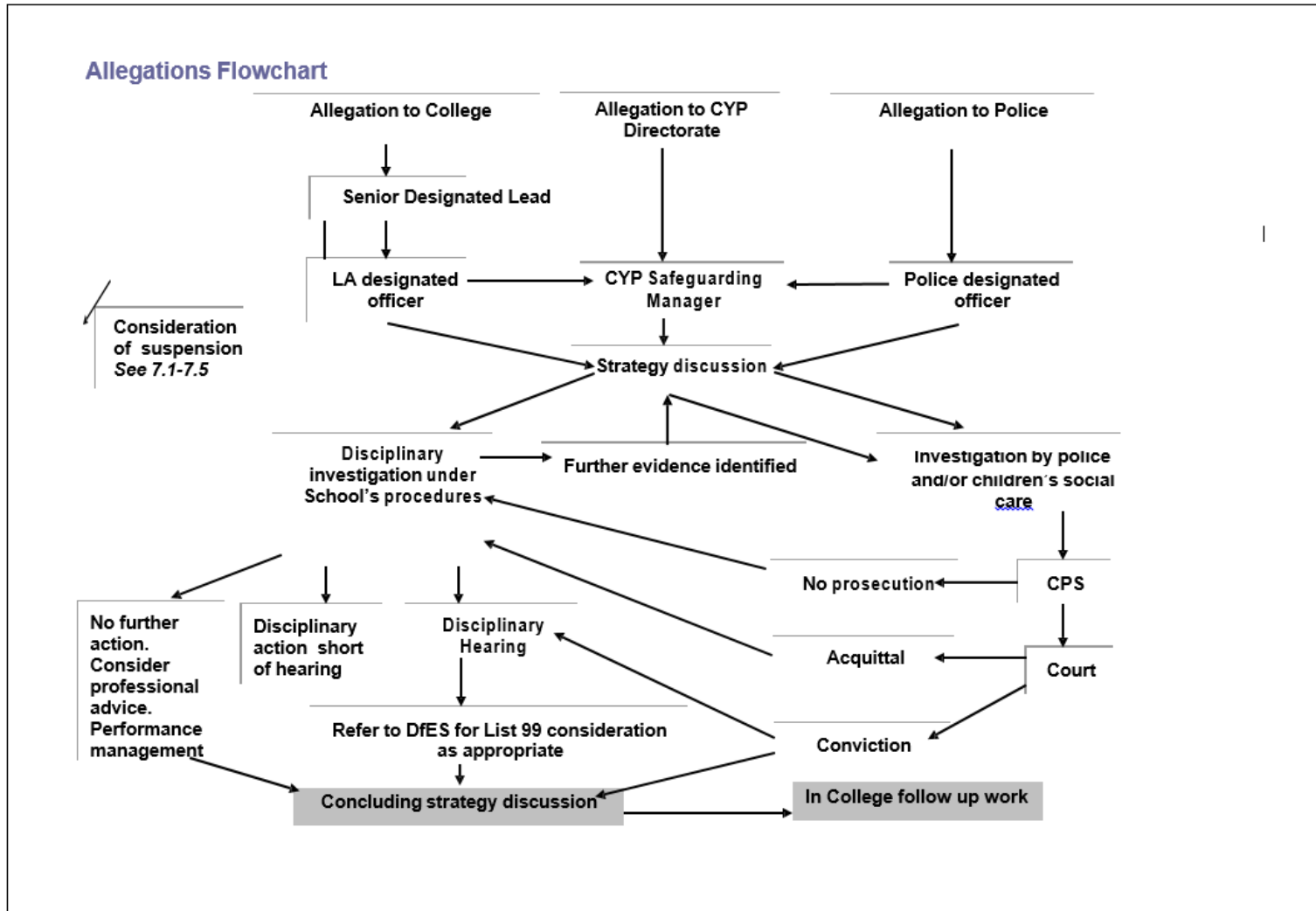
Action following initial consideration

10. Where the initial consideration decides that the allegation does not involve a possible criminal offence the employer will deal with it.
11. If the nature of the allegation does not require formal disciplinary action the Principal/ Chair of Governors should institute appropriate action within 3 working days and confirm in writing to the LADO what action has been taken.
12. Where further investigation is required to inform consideration of disciplinary action the Principal in consultation with the LADO will decide who should undertake that. The investigating officer should aim to provide a report to the employer within 10 working days.
13. On receipt of the report of the investigation the Principal and Chair of Governors should consult the LADO and decide whether a hearing is needed within 2 working days. If a hearing is required it should be held within 15 working days.

Referral to DfES

14. If the allegation is substantiated and the person is dismissed or the College ceases to use the person's services, or the person resigns or otherwise ceases to provide his/her services, the LADO should discuss with the school and personnel officer whether a referral to the DfES is required.

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Introduction

1 Governing Bodies

1.1 Governing bodies are required by legislation to make arrangements to ensure that their functions are carried out with a view to safeguarding and promoting the welfare of children. This includes having effective systems in place to promote safe practice, to prevent unsuitable people from working with children and young people; and to challenge poor and unsafe practice. There is considerable national guidance on these issues (see Appendix 3), and it has been taken into account in the preparation of this document.

1.2 This procedure has been adopted by the governing body on the recommendation of Suffolk County Council and will be used in respect of all cases in which it is alleged that a teacher or member of staff in a College (including a volunteer) has:

- Behaved in a way that has harmed a child, 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.

Definitions of categories of abuse and examples of actions that may be interpreted as abusive are set out in Appendix 2.

2. Scope of the Procedure

2.2. This procedure aims to ensure that all allegations against staff and volunteers are dealt with thoroughly and appropriately whilst striking a balance between the need to protect children from abuse and the need to protect staff and volunteers from false or unfounded accusations.

2.3. All staff and volunteers should understand what to do if they receive an allegation against another member of staff or they themselves have concerns about the behaviour of another member of staff. Failure to report conduct which meets the criteria set out in 1.2 above may be dealt with under the Governing Body's Disciplinary Procedures

2.4. There may be up to 3 strands in the consideration of an allegation:

- A police investigation of a possible criminal offence;
- Enquiries and assessment by children's social care about whether a child is in need of protection or in need of services;
- Consideration by the school of disciplinary action in respect of the individual.

Some cases will also need to be reported to DfES for consideration of including the person on List 99, or consideration by the General Teaching Council (GTC), about possible sanctions against an individual.

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This applies to governing bodies of schools and further education institutions, management committees of pupil referral units and Children's Centres.

- 2.5 A summary of the process and a flowchart illustrating the steps within the procedure are set out at the beginning of this document.
- 2.6 It is for the Principal to deal with all cases, unless they involve allegations against the Principal, in which case the Chair of Governors assumes the role assigned, in this procedure, to the Principal. All cases will require close and regular liaison between school and Local Authority and, in some cases, the Dioceses.

3 Reporting Allegations

- 3.1 All allegations that meet the criteria set out in 1.2 should be reported straight away.
- 3.2 Allegations should be reported to the Principal immediately unless the allegation is about the Principal, in which case it should be reported to the LADO who will inform the Chair of Governors immediately.
- 3.3 The allegation should not be investigated by the College at this stage.
- 3.4 The Principal should report the allegation to the LADO the same day. Contact details are set out in Appendix 1.
- 3.5 If an allegation is made to the police, the officer who receives it should report it to the force designated liaison officer straight away. Similarly, if the allegation is made to Children and Young People's Service (CYP) the person who receives it should report it to the LADO without delay.

4 Initial consideration

- 4.1 The LADO will discuss the matter with the Principal and, where necessary, obtain further details of the allegation and the circumstances in which it was made. The discussion should also consider whether there is evidence/information that establishes that the allegation is false or unfounded.
- 4.2 If the allegation is not demonstrably false the LADO will immediately refer the matter to the Head of Safeguarding, or his named representative (see appendix 1), and ask for a strategy discussion to be convened as soon as possible. In cases where the Head of Safeguarding determines that the allegation does not meet the threshold of abuse s/he may decide that a strategy discussion is not necessary and that the matter can be dealt with by the College under disciplinary procedures.
- 4.3 The strategy discussion should include the LADO and the Principal.

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5 Cases subject to a School /LA Investigation

- 5.1 Where, following a strategy discussion, the initial consideration determines that the allegation does not involve a possible criminal offence it will be for the employer to deal with it.
- 5.2 In such cases, if the nature of the allegation does not require formal disciplinary action, the Principal should institute appropriate action within 3 working days and confirm in writing to the LADO what action has been taken.
- 5.3 If a disciplinary hearing is required and can be held without further investigation, this should take place within 15 working days.
- 5.4 Where further investigation is required to inform consideration of disciplinary action, the Principal should decide who will undertake that in consultation with the LADO and HR. In some settings and circumstances it may be appropriate for the disciplinary investigation to be conducted by a person who is independent of the College. The investigating officer should aim to provide a report to the Principal within 10 working days.
- 5.5 On receipt of the report on the disciplinary investigation, the Principal should consult the LADO and HR and decide whether a disciplinary hearing is needed within 2 working days. If a hearing is required it should be held within 15 working days.
- 5.6 In any case in which children's social care has undertaken enquiries to determine whether the child or children are in need of protection, the Principal should take account of any relevant information obtained in the course of those enquiries when considering disciplinary action.
- 5.7 The LADO should continue to liaise with the school to monitor progress of the case and provide advice/support when required/requested.

6 Cases subject to Police Investigation

- 6.1 If a criminal investigation is required the police will aim to complete their enquiries as quickly as possible consistent with a fair and thorough investigation and will keep the progress of the case under review.
- 6.2 A target date should be set at the outset for reviewing progress of the investigation and consulting the CPS about whether to proceed with the investigation, charge the individual with an offence, or close the case.
- 6.3 Wherever possible that review should take place no later than 4 weeks after the initial strategy discussion and, if the decision is to continue to investigate the allegation, dates for subsequent review should be set at that point.
- 6.4 If the police and/or CPS decide not to charge the individual with an offence, or decide to administer a caution, or the person is acquitted by a Court, the police should wherever possible aim to pass all information they have which may be relevant to a disciplinary case to the employer within 3 working days of the decision. In those circumstances the employer and the LADO should proceed as described in paragraphs 5.1 to 5.7 above.

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6.5 If the staff member or volunteer is convicted of an offence the police should inform the employer straight away so that appropriate action can be taken.

7 Suspension

7.1 Suspension should not be an automatic response to an allegation. However, suspension should be considered in any case

7.2 Where there is cause to suspect a child is at risk of significant harm, or

7.3 The allegation warrants investigation by the police where there is a risk that the presence of the employee on site could compromise the course of the police investigation, or

7.4 Is so serious that it might be grounds for dismissal.

7.5 Schools must consider carefully whether the circumstances of the case warrant a person being suspended from contact with children until the allegation is resolved and should consult and seek advice from the LADO and HR.

7.6 Consideration should be given to whether the result that would be achieved by suspension could be obtained by alternative arrangements.

7.7 Whilst the decision to suspend rests with the Principal and governing body of the College, in cases where a strategy discussion or initial evaluation concludes that there should be enquiries by social care and/or an investigation by the police, the LADO should canvass police/social care views about whether the accused member of staff should be suspended from contact with children in order to inform the school's decision.

7.8 In cases where it is decided on conclusion of the case that a person who has been suspended can return to work, the College should consider how best to facilitate that. Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The College should also consider how the person's contact with the child or children who made the allegation can best be managed if they are still attending the school.

8 Referral to DfES

8.1 If the allegation is substantiated and the person is dismissed or the College ceases to use the person's services, or the person resigns or otherwise ceases to provide his/her services, the LADO should discuss with the school and HR whether a referral to the DfES is required. If a referral is appropriate the report should be made within one month.

9 Supporting those involved

9.1 Parents or carers of a child or children involved should be told about the allegation as soon as possible if they do not already know of it. The Principal should consult with the LADO about how and by whom they should be informed.

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- 9.2 The parent/carer should also be kept informed about progress of the case and told what action will be taken where there is not a criminal prosecution.
- 9.3 In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children’s social care, or the police as appropriate, should consider what support the child or children involved may need.
- 9.4 A named contact should be identified by the Principal in consultation with the LADO who will keep the staff member or volunteer subject to the allegation informed of progress with the case.
- 9.5 The Principal should consider, in consultation with the LADO, what other support is appropriate for a staff member. This might include a referral to the occupational health service or support through employee welfare arrangements.
- 9.6 If the person is suspended the College should also keep them informed about developments at College.
- 9.7 If the staff member is a member of a union or professional association they should be advised to contact that body at the earliest opportunity.

10 Confidentiality

- 10.1 Every effort should be made to maintain confidentiality and guard against unwanted publicity while an investigation is being investigated/considered.
- 10.2 All proceedings will remain confidential to the parties concerned. The details of proceedings of any investigatory interviews and/or hearings and appeals will not be reported other than to those who have a role in the proceedings.

11 Resignations and “Compromise Agreements”

- 11.1 The fact that a person tenders his or her resignation, or ceases to provide their services, must not prevent an allegation being followed up in accordance with these procedures. It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process.
- 11.2 Wherever possible the person should be given a full opportunity to answer the allegation and make representations about it, but the process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be regarded as substantiated on the basis of all the information available should continue, even if that cannot be done or the person does not cooperate.
- 11.3 “Compromise agreements” by which a person agrees to resign, the College agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, must not be used in these cases. In any event, such an agreement will not prevent a thorough

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police investigation where that is appropriate. Nor can it override the statutory duty to make a referral to List 99 where circumstances require that.

12 Record keeping

- 12.1 It is important that a clear and comprehensive summary of any allegations made, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the staff member's confidential personnel file, and a copy provided to the person concerned.
- 12.2 The purpose of the 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 provide clarification in cases where a future CRB Disclosure reveals information from the police about an allegation that did not result in a criminal conviction.
- 12.3 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

13 Action in respect of unfounded Allegations

- 13.1 If an allegation is determined to be unfounded, the LADO should refer the matter to children's social care to consider whether the child concerned is in need of services, or may have been abused by someone else.
- 13.2 In the rare event that an allegation is shown to have been deliberately invented or malicious, the Principal should consider whether any disciplinary action is appropriate against the student who made it, or the police should be asked to consider whether any action might be appropriate against the person responsible if s/he was not a pupil.

14 Learning lessons

- 14.1 At the conclusion of a case in which an allegation is substantiated the LADO should review the circumstances of the case with the Principal to determine whether there are any improvements to be made to the College's practice to help prevent similar events in the future.

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Appendix 1 Designated Officer: Local Contact Details

The following posts have been identified by the Head of Safeguarding, on behalf of the Director for Children and Young People's Services, to act as 'LADO' for the purpose of this procedure and will usually be the first point of contact for Suffolk County Council maintained and voluntary aided schools:

Northern Area

Maureen Lamont 01502 405188 Safeguarding Manager

Southern Area

Tina Wilson 01473 581871

Safeguarding Manager

Western Area

Susanna Bedford 01284 758816

Safeguarding Manager

Local Designated Officers can be contacted via email on LADOCentral@suffolk.gcsx.gov.uk or using the LADO central telephone number [0300 123 2044](tel:03001232044) for allegations against all staff and volunteers.

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Appendix 2

Categories of child abuse as defined by “Working Together”

- Physical Abuse – may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child.
- Emotional Abuse – The persistent emotional ill treatment of a child such as to cause severe and persistent adverse effects on the child’s emotional development.
- Sexual Abuse – Involves forcing or enticing a child or young person to take part in sexual activities, whether or not the child is aware of what is happening. The activities may involve physical contact, including penetrative or non-penetrative acts. They may include non-contact activities, such as involving children in looking at, or in the production of, pornographic material or watching sexual activities, or encouraging children to behave in sexually inappropriate ways.
- Neglect – Neglect is the persistent failure to meet a child’s basic physical and/or psychological needs, likely to result in the serious impairment of the child’s health or development.

Types of Allegation (Extract from IRSC document “Definitions and Threshold for Managing Allegations against Education Staff”)

- Physical Abuse – evidence shows that allegations of physical abuse are more common than those of a sexual nature. They often arise from incidents involving physical intervention or classroom management, when the actions of members of staff are perceived as an excessive use of force, an assault or both. All schools should ensure that they have robust recording systems to log any incidents that have resulted in the use of restraint (see Suffolk County Council policy document “The Use of Restraint in Schools)
- Sexual Abuse – Allegations of sexual abuse can be extremely emotive and therefore difficult to deal with. They can range from sexual assault to allegations of inappropriate touching, language or behaviour, which are perceived to have a sexual motive. All members of staff have a responsibility toward the children in their establishment and a majority of staff are placed in a position of trust. They should be aware of any safe practice guidelines that are in place and be clear as to what constitutes inappropriate contact with pupils. Clear codes of conduct should be adhered to.
- Emotional Abuse and Neglect – Issues of emotional abuse and neglect are much more complex and are more likely to come to light via a school’s complaints procedure.

Examples of actions that may be interpreted as abusive

Physical Abuse

- Any form of physical assault (including attempts) e.g.
- Punching
- Kicking
- Pushing

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- Smacking
- Slapping
- Shaking
- Throwing a missile at a pupil (e.g. chalk, board rubber etc)

Sexual Abuse

- Any form of sexual assault. (includes attempts)
- Abuse of a position of trust.
- Possession of indecent and pseudo indecent photographs of children. (includes computer images).
- Showing indecent or pornographic material to children.
- Inappropriate touching, language, or behaviour toward any child or pupil for sexual purposes.
- Inappropriate use of text messaging, e-mail or other IT toward any child or pupil for sexual purposes.

Emotional Abuse and Neglect

- Racial comments or behaviour, or failing to address these in others
- Homophobic comments or behaviour, or failing to address these in others
- Bullying pupils, or failing to address this in others
- Persistent sarcasm
- Belittling pupils e.g. persistently placing a child in a corner or a corridor
- Creating a climate of fear in the classroom
- Damaging a pupil's self esteem through persistent lack of warmth and positive regard
- Inappropriate punishment e.g. placing a child in a cupboard
- Failing to protect a child from physical harm or danger (e.g. school trips)
- Failing to ensure access to appropriate medical care or treatment (e.g. where a pupil sustains an injury)

The above examples are not exhaustive and only serve as a guide. Many of these behaviours do constitute a criminal offence, some do not and some may not reach a threshold of significant harm.

Examples of Actions That Are Non-Abusive

- Applying restraint consistent with legislation and guidance (S.550A Education Act 1996 and Circular 10/98, see also SCC policy document "The Use of Restraint in Schools")
- Removing, with reasonable force, potentially dangerous items from a pupil's possession, or a pupil from a dangerous location
- Shepherding pupils (e.g. hand on back/shoulder)
- Comforting (e.g. hand on arm/shoulder/back)
- Securing attention by tapping pupil's shoulder

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Staff should be aware, however, that any physical contact with students could be open to misinterpretation. Perceptions and language can present very different views of the same incident. Tapping a child could be interpreted as an assault, particularly where there has been some earlier disagreement between the child and the member of staff concerned. Some methods of comforting a child could be viewed as an unwanted sexual advance. Other than in circumstances which are in accordance with an agreed physical intervention policy, physical contact should be age appropriate, with the child's permission, and limited to the needs of the child at the time.

Conduct Outside the Work Place

Staff need to be aware that allegations of child abuse and alleged criminal offences which take place outside the workplace are likely to render the subject to these procedures.

Illegal use of the internet to access child pornography are incidents of domestic violence where children are present, are examples where this may occur.

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Appendix 3

Sources of Guidance Documents

Safeguarding Children and Safer Recruitment in Education January 2007

Working Together to Safeguard Children 2006

Safeguarding Children in Education

DfES/0027/2004, September 2004

Safeguarding Children in Education: Dealing With Allegations of Abuse against Teachers and Other Staff

DFES/2044/2005, November 2005

Safeguarding Children: Safer Recruitment and Selection in Education Settings

DFES/1568/2005, June 2005

The Children Act 1989

The Protection of Children Act 1999

The Education Act 2002

The Sexual Offences (Amendment) Act 2000

Sets out the offence of the Abuse of Position of Trust

The Sexual Offences Act 2003

Re-enacts and extends the Abuse of Position of Trust offences

Guidance for Safe Working Practice for the Protection of Children and Staff in Education Settings

IRSC, February 2005

Definitions and Thresholds for Managing Allegations Against Education Staff

IRSC, February 2005

Allegations against Education Staff: Thresholds for and Alternatives to Suspension

IRSC, February 2005

Allegations against Staff in Education: Guidance for Staff Contributing to Strategy Discussions

IRSC, June 2005

Circular 10/98 Section 550A of the Education Act 1996: The Use of Force to Control or Restrain Pupils

Suffolk County Council Policy Document: The Use of Restraint in Schools

Suffolk County Council: Whole School Policy for Safeguarding Children

Suffolk County Council: Locally Managed Schools Disciplinary, Capability & Grievance

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