

ATL ADVICE



Allegations of abuse against staff

One of the worst case scenarios for any teacher is the allegation that you have abused a pupil and his/her parents have reported the 'abuse' to the police. This factsheet aims to address the key concerns expressed by ATL members when faced with such allegations.

Although panic may be your first reaction, it is important to try and keep a clear head. This factsheet has been updated following publication in July 2011 of the Department for Education's (DfE) guidance *Dealing with Allegations of Abuse*.

What does the term 'abuse' mean?

According to the DfE guidance, an allegation of abuse generally means the member of staff has allegedly:

- behaved in a way that has harmed, or may have harmed, a child or young person
- possibly committed a criminal offence against or related to a child or young person
- behaved towards a child or young person in a way that indicates he or she is unsuitable to work with them.

What should I do if an allegation is made against me?

You should report the matter to your headteacher/principal and provide a full written account of the incident. Let your headteacher/principal know if there were any witnesses, either in the classroom or the corridor, who may have seen or heard what happened. You should also contact either your local ATL branch or ATL's London office for advice on your position.

All schools and colleges should have clear written procedures in place for dealing with allegations of abuse. A copy of these is likely to be in the staff handbook. The procedures should identify the person to whom reports ought to be made in the absence of the headteacher/principal, which is likely to be the member

of staff responsible for child protection. The chair of governors will be the responsible person if the allegation involves the headteacher/principal.

What sort of investigations could I be subjected to?

Serious allegations would lead to investigations by both your employer and the police. Additionally, some cases may require immediate investigation by children's (social) services.

Internal investigations may, depending on the conclusions of the headteacher/principal, recommend a move to disciplinary procedures. If so, ATL members have the right to be accompanied by either a trade union representative or work colleague to any related meetings with management.

Depending on the seriousness of a case, the outcome of an investigation into an allegation may have to be notified to the Independent Safeguarding Authority (ISA) with a view to a decision being made on whether an individual can continue working with children.

Additionally, in the maintained sector a referral may need to be made to the General Teaching Council (GTC)/DfE for possible sanctions.*

In England, Wales and Scotland the relevant GTCs/DfE have disciplinary powers in relation to misconduct. The GTC Northern Ireland also has regulatory powers in relation to conduct and competence.

The ISA operates across England, Wales and Northern

Ireland. In Scotland the Protecting Vulnerable Groups (PVG) Scheme came into operation in February 2011. Members seeking further information on the scheme should see the factsheet *Protecting Vulnerable Groups Scheme (Scotland) (ADV45)* which can be downloaded from the ATL website at www.atl.org.uk/factsheets.

In the FE sector in England, the Institute for Learning (IFL) operates a similar system to the GTC. However there is no obligation on employers to refer cases to the IFL (aside from criminal cases or those deemed to be the concern of the Secretary of State), though in many cases colleges will do so. The IFL also accepts complaints from students, parents, etc.

Wales, Scotland and Northern Ireland have no FE staff professional regulatory bodies. However, FE lecturers in Scotland who meet the criteria are eligible (and encouraged) to be members of the GTC Scotland. This would mean that there could be a referral to the GTCS. The GTC in Wales, supported by ATL Cymru, has called on the Welsh Assembly Government for professional self-regulation for the FE sector.

In Wales, Dream Group Ltd is the appointed independent investigation service (IIS) that assists school governing bodies when dealing with child protection allegations against school staff. The role of the Welsh Assembly Government's independent investigator is to examine and review any evidence provided by the statutory authorities, to undertake its own investigation into the allegations on behalf of the governing body and to produce a detailed report of its findings for the governing body staff disciplinary/dismissal committee to consider and reach a decision.

Governing bodies are not legally required to use the Welsh Government's IIS, but if they do it will be free of charge. Governing bodies are free to appoint their own investigator but where they do so any costs incurred will be charged to the school's delegated budget.

* The GTC (England) is due to be closed in March 2012. Its replacement the Teaching Agency will be responsible for quality and regulation. Disciplinary hearings will run in a similar way to the GTC, but teachers will not have to register with it or pay a subscription fee. There are no plans to close the GTC Scotland, GTC Northern Ireland or GTC Wales.

Can I have a union representative at meetings?

If an investigatory meeting is held, this will not by itself

result in any disciplinary action and there is no statutory right for an employee to be represented. However, it is considered good practice to allow an employee to be accompanied and many employers' procedures will allow and indeed encourage representation at this stage. Certainly, ATL members are advised to request that they be accompanied by a union representative.

If the investigation results in a disciplinary hearing, employees have a statutory right to be represented.

What legal support can I expect from ATL?

Don't be alarmed if the police contact you to provide them with a statement. This is standard practice as the police are obliged to investigate allegations of abuse against pupils.

If you are contacted by the police to attend an interview you should ask for the name of the investigating officer, date, time and location of where you are expected to attend for the interview and pass this information to ATL as a matter of urgency. ATL provides criminal legal advice and support to individuals who are members of ATL at the time when an allegation is made and provided it is in relation to their employment and not their private life.

It is rare for the police to ask you attend an interview at short notice. However, if this happens and it is at a time when ATL offices are closed, eg a bank holiday, then you should either ask for an alternative date or, if this is refused, ask for the duty solicitor who will be able to advise you free of charge.

What are the time limits in investigating allegations?

The DfE guidance states that a quick resolution should be the priority with unnecessary delays avoided. That said, in some cases follow-on enquiries may be needed, eg with the police and/or social services, before deciding how the case should proceed.

Can I be suspended?

In some cases such as where it is considered that there is a risk of harm to a child/young person, a school or college may consider suspending the staff member until the case is resolved. However, the DfE guidance states that staff suspension should not be the default option, an individual should only be suspended if there is no reasonable alternative option.

Can I keep in touch with colleagues whilst on suspension?

The DfE guidance states that social contact with colleagues and friends must not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

What action can be taken against pupils who make malicious allegations?

The school should consider appropriate action in line with its behaviour policies. This could include temporary or permanent exclusion and even a referral to the police if the school believes a criminal offence may have been committed.

What support can I expect from the school?

Employers have a duty of care to their employees. Accordingly, they should provide effective support for anyone facing an allegation, including a named contact to keep them informed of progress with the case.

Where it is decided the individual who has been suspended can return to work – either because the allegation has proved unfounded or after a disciplinary hearing – the school/college should consider how best to facilitate this. This could include a phased return to work and/or the provision of a mentor to provide assistance and support in the short term.

There must also be consideration of how to manage the individual's contact with the pupil/student who has made the allegation, if s/he is still attending the school or college.

Will the allegation be recorded on my file?

The DfE guidance states that allegations found to be false or malicious should be removed from personnel records.

Will the allegation be mentioned in my reference?

The DfE guidance gives clear advice to employers. Any allegation that is not substantiated, is unfounded or malicious should not be referred to in employer references.

Could the allegation appear on my CRB check?

If the police investigate the allegation then details of their interview with the member will be retained by the police and may, at the discretion of the chief officer of police, be disclosed in a Criminal Records Bureau (CRB) check. Clearly, if the allegations were held to be unfounded this should be made clear.



Need advice?

Your first point of contact is the ATL rep in your school/college. Your local ATL branch is also available to help, or you can contact ATL's member advisors on 020 7930 6441, email info@atl.org.uk. Don't forget there's lots more advice on ATL's website at www.atl.org.uk.

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