

**NSPCC response to Children, Schools and Families Select Committee
inquiry into Allegations against School Staff**

(Children, Schools and Families Select Committee, May 2009)

**NSPCC
42 Curtain Road
London
EC2A 3NH**

May 2009

**Telephone: 020 7825 1352
Fax: 020 7825 2964**

Website: www.nspcc.org.uk/publicaffairs

NSPCC response to Children, Schools and Families Select Committee inquiry into Allegations against School Staff

Summary of recommendations

- The NSPCC agrees with and endorses current media reporting guidelines from the Association of Chief Police Officers (ACPO) which state that information about someone under investigation should not normally be released to the public unless and until the person is charged with a criminal offence. The NSPCC believes that extending anonymity to the point of conviction could provide less protection for children and young people in schools. The NSPCC recommends:
- All governors should have training and support on how to deal with allegations and disciplinary procedures. This should include support from local authorities, for schools within and outside local authority control, on how to establish disciplinary panels to manage allegations.
- The suspension of a staff member against whom an allegation has been made should be left to the discretion of the school during an investigation. In deciding when to suspend a staff member, the protection, safety and best interests of the child at the centre of the investigation should be paramount.
- The guidance on the appropriate time to arrest a member of school staff should not be changed.
- Schools should designate allegations as either 'unfounded', 'unsubstantiated' or 'malicious' rather than using the term 'false' which suggests that the allegations are of no further concern and should be disregarded.
- Schools and staff responsible for dealing with allegations made against school staff should be familiar with the guidance for the barring decision making process developed by the Independent Safeguarding Authority.
- Guidance on managing allegations, which is currently being consulted on by the DCSF shortly, should state that any allegation relating to a child protection concern made against a staff member or volunteer, whether or not it has been found to be malicious, unsubstantiated or unfounded should be kept whilst that person is still employed by the school where the allegation was made and also referred to a central point in the school's local authority.
- Any allegations made against staff in independent schools should also be held by the school and referred to the local authority within which the school resides.

1. General comments

1.1 We welcome the opportunity to submit evidence to the Children, Schools and Families Select Committee inquiry into allegations against school staff. This is a complex and controversial area which the Department for Children, Schools and Families has attempted to tackle over recent years.

1.2 The starting point of this debate must be putting the child's best interests at the centre and ensuring a system that protects children and enables them to come forward. Every child has a right to be safe and protected, a right to be listened to and a right to be involved in decisions which directly affect them as stipulated in Articles 3 and 12 in the UN Convention on the Rights of the Child.

1.3 The events of January 2006, when a number of sex offenders were found to be working in schools, underline how important it is to ensure that schools have a culture of vigilance and a child protection mindset.

1.4 Alongside the guidance we recommend the introduction of measures in schools and other settings to help reduce the risk of false allegations. These should include safeguarding policies and guidelines covering one to one meetings with children and young people and what constitutes inappropriate behaviour and the introduction of value based interviews into the recruitment and selection process to do everything possible to minimise the risk of recruiting unsuitable people to a school setting. Child Protection training, which is a key component of teacher training, can also provide school staff with the confidence and expertise to deal with any allegations that may arise.

2. The scale and nature of allegations of improper conduct made against school staff

2.1 Scale of allegations

In 2007-08, ChildLine received 68,758 calls about physical abuse, sexual abuse, emotional abuse, unspecified abuse, school problems and bullying. Records show that in 11,705 calls the perpetrator of the abuse was unknown. However, a collation of the number of calls on this issue show that 1,491 children counselled, a teacher was identified as the perpetrator of the abuse. This figure (1,491) includes all calls where a teacher was mentioned as the perpetrator of abuse and could include repeat callers or calls which do not appear genuine in their presentation. The figure also only includes the number of children and young people who positively identified a perpetrator of abuse, many did not; thus the actual number of children and young people abused by a teacher or another member of the school staff could potentially be larger. We would be happy to provide the inquiry with a more detailed analysis of calls upon request.

2.2 Nature of allegations

The calls from children and young people to ChildLine highlight some of the abusive and improper conduct by staff in the education service. These range from emotional, psychological and physical abuse and bullying to sexual abuse and serious violent sexual crimes including rape. For example:

'My teacher is being horrible to me, I don't know what to do - he keeps picking on me. He keeps saying "I don't like you". It has been going on for a couple of weeks. It is making me feel sad. It happened again today. He shouted at me and smacked me.'

'I'm being hit by a teacher. I'm being smacked, punched. I'm not telling any teachers because they don't believe us. I've already told people but they've done nothing.'

'I am 15 and I have been raped by my teacher. I feel scared. I don't want anyone to know.'

Other calls from young people state that:

'A teacher has been texting me for months and has given me detention for no reason. The teacher has been chatting me up and touching me. Last time he asked me to have sex with him. I'm afraid to tell anyone.'

'The headteacher hit me on my head. I don't want to tell my parents as they will not believe me.'

'My teacher keeps me behind in class and is trying to have sex with me. He calls me his 'special student'.

'My teacher is telling me that I am always going to be a failure and that I am not bright. It is really depressing me'.

'I was raped by my teacher last Friday. I haven't told anyone about it. There is no-one that I can talk to'.

3. Whether staff subject to allegations should remain anonymous while the case is investigated

3.1 Current media reporting guidelines from the Association of Chief Police Officers (ACPO) state that information about someone under investigation should not normally be released to the public unless and until the person is charged with a criminal offence. The NSPCC agrees with and endorses this guidance. We do not believe that extending anonymity will improve safeguarding or protection for children and young people in schools, as it could send out a message to children and young people that genuine allegations will not be believed.

3.2 We have not found any evidence to show that teachers are any more likely to have allegations made against them than any other professional who works with children and young people. Introducing this change for teachers and education staff would thus create a two-tier system and potentially have serious implications for the anonymity of other perpetrators in other professions who work with children and young people of abuse.

3.3 We do not agree with proposals put forward by some teaching unions that school staff should remain anonymous up to the point of conviction. The starting point of this debate must be the child's best interests. We need a system that protects children, enables them to come forward to disclose abuse and enables the fullest consideration of the allegation. Importantly, the current system allows the potential for more witnesses to an incident or other instances of abuse perpetrated by the same individual to come to light.

3.4 It is very difficult for children to bring a successful prosecution against people whom they know well and relatively few children make allegations about abuse. For example, latest available figures show that in 2006 in England and Wales only 38 per cent of individuals who were prosecuted for the rape or attempted rape of a child under the age of (a) 13 and (b) 16 received a conviction¹.

3.5 Anonymity beyond the point of charge could result in fewer successful convictions, as it would remove the potential for bringing forward more witnesses to an incident and/or others who have been abused by the same person.

3.6 The NSPCC recommends that allegations of abuse need to be dealt with robustly, quickly and efficiently. Safeguarding children and young people requires broader action including a culture of vigilance about risks to children and clear understanding about appropriate interaction with children, challenging unacceptable behaviour, providing examples of good conduct and ensuring children know who they can turn to if they are being abused. We also recommend that value based interviewing should be implemented and used in the selection and recruitment process to recruit school staff who support the safeguarding agenda in protecting children from harm and minimising the risk of recruiting unsuitable people to the school.

4. Whether the guidance available to head teachers, school governors, police and others on how to handle claims of improper conduct by school staff should be revised, with particular reference to:

a) the procedures to be followed by disciplinary panels

4.1 Evidence gathered from NSPCC practitioners and staff with expertise on managing allegations suggests that the current procedures for handling claims of improper conduct by school staff are sufficiently robust and rigorous. The NSPCC recommends that there should be no change in the procedures to be followed by disciplinary panels dealing with allegations made against school staff.

4.2 However, NSPCC practitioners and staff have reported that schools sometimes do not properly implement the procedures set out in Safeguarding Children and Safer Recruitment in Education² which can cause distress to the different parties involved. In some cases, NSPCC practitioners have reported

¹ Court proceedings database - Criminal Justice Evidence and Analysis - Office for Criminal Justice Reform.

²<http://publications.everychildmatters.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DFES-04217-2006&>

that schools have developed their own process for managing allegations made against school staff which have been very lengthy and opaque.

4.3 Schools are often unfamiliar with managing procedures for dealing with allegations. Evidence from practitioners suggests that schools sometimes do not follow procedures set out in guidance issued by the Department for Children, Schools and Families, preferring to develop and implement their own procedures.

4.4 In some areas, such as East Sussex, local authorities are providing support for governors in establishing disciplinary panels and guidance and training on procedures to be followed by disciplinary panels. Governors should have training on how to deal with allegations and disciplinary procedures and support from local authorities on how to establish disciplinary panels to manage allegations.

b) when suspension of the staff member concerned is appropriate

4.5 The NSPCC recognises that suspension of a member of staff whilst an allegation is being investigated is sometimes interpreted as an admission of guilt by the wider school community. However, their continued presence in the school can also be prejudicial to a fair and thorough investigation of the allegation as the member of school staff may still have access to the child or young person who made the allegation.

4.6 Schools can often find it difficult to identify the most appropriate point in an investigation when a staff member should be suspended if an allegation has been made against them by a child or young person, but this should be left to the discretion of the school. However, in deciding when to suspend a staff member, the protection, safety and best interests of the child at the centre of the investigation should be paramount.

4.7 The suspension should be done in a non-prejudicial way and it should be made clear to both the staff member and the child or young person who has made an allegation that there should be no contact between them.

4.8 As mentioned above in paragraph 4.5, suspension of a staff member can sometimes be viewed by the wider school community as an admission of guilt which often makes it difficult for them to return to the workplace if an allegation is unfounded or if there is insufficient evidence to prosecute. It is important that when a member of staff returns to school after an allegation has been declared unfounded or there is insufficient evidence for a prosecution, that it is managed carefully and that both the child or young person who made the allegation and the staff member are appropriately and sufficiently supported. This should include effective communication between all parties.

c) when arrest of the staff member concerned is appropriate

4.9. Arrest of an individual is a policing matter and Section 24 of the Police and Criminal Evidence Act 1984 (PACE) as amended by section 110 of the Serious and Organised Crime and Police Act 2005 (SOCAP) provides a constable with the power of arrest for an offence. The exercise of this power requires the officer to apply the necessary criteria set out in PACE Code G and show that the arrest is necessary.

4.10. PACE Code G sets out the requirements for a lawful arrest. If either of the requirements for a lawful arrest are fulfilled during an investigation then it would be appropriate for the police to arrest a member of staff for further investigation and questioning as necessary to the inquiry. We do not recommend any change to the guidance on when arrest is appropriate.

d) the retention of records of allegations found to be false

4.11. The nature and complexity of allegations made against school staff can mean that allegations can be unfounded, unsubstantiated or malicious, but it is too simplistic to describe allegations which are not criminally prosecuted to be false. Allegations may be unsubstantiated, but this can be because of a lack of evidence or because allegations have been withdrawn by the person who made them. There were nine separate allegations against Ian Huntley - from sexual assault to rape - and all except one were investigated by Humberside Police between 1995 to 1999. The murder of two young girls in Soham by Ian Huntley demonstrates the importance of retaining allegations which have not been substantiated or unfounded. The case also highlights it is essential that information is shared properly between agencies and that staff who are responsible for this know how to do it and in a timely and appropriate manner.

4.12. The NSPCC recommends that schools should designate allegations as either 'unfounded', 'unsubstantiated' or 'malicious' rather than using the term 'false' which suggests that the allegations are of no further concern and should be disregarded.

4.13. The retention of records of allegations found to be false must be consistent, reasonable and proportionate for all of the parties involved. We recommend that guidance on managing allegations which is due to be published by DCSF shortly should state that any allegation relating to a child protection concern made against a staff member or volunteer, whether or not it has been found to be malicious, unsubstantiated or unfounded should be kept whilst that person is still employed by the school where the allegation was made and also referred to a central point in the school's local authority.

4.14. Any allegations made against staff in independent schools should also be held by the school and referred to the local authority within which the school resides.

4.15. The NSPCC operates a system whereby any allegation relating to child protection that is made against either employed staff or volunteer independent visitors is kept on record. We release the information to future

employers if we have reason to believe that the individual poses a risk to child or young person.

4.16. The introduction of the new vetting and barring scheme operated by the Independent Safeguarding Authority in 2010 poses a number of challenges. Specifically, determining how and when 'soft' information, such as police intelligence or details about allegations made against school staff which were not referred to the police, should be disclosed and/or where there are (continuing) concerns about the appropriateness of an individual working with children and young people.

4.17. The NSPCC recommends that schools and staff responsible for dealing with allegations made against school staff should be familiar with the guidance³ for the barring decision making process developed by the Independent Safeguarding Authority. This guidance sets out details and clarifies the collection, retention, deletion, use and sharing of information and when and what type of information should be disclosed and entered into the ISA registration of a member of school staff if an allegation is made against them. Guidance should also be developed for those against whom allegations are made to ensure that the process is transparent and that information is passed on and/or shared with other parties in an open and accountable manner.

4.18. As highlighted above, some allegations are malicious in nature and although this can be distressing for the person against whom they are made, it can also be a cry for help or a sign that a child or young person is being abused at home or elsewhere. There should be full exploration of why the child or young person made the allegation, including an assessment of whether they need any extra support.

For further information, please contact: Emily Arkell, Policy Adviser – Safeguarding. Tel: 020 7825 1352 or email: earkell@nspcc.org.uk.

³ <http://www.isa.gov.org.uk/pdf/GuidanceNotesforBarringDecisionMakingProcessweb.pdf>