



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

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Produced by:
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I. Definitions

Throughout this document references are made to "children", "young people" and "pupils". These terms are interchangeable. All refer to children under the age of 18 years.

For ease of reading references are often made to "school". This term is interchangeable with all other types of educational establishments eg FE Institutions, Sixth Form Colleges, Pupil Referral Units.

References to "staff" or "adults" include teachers, other staff/governors, and volunteers, working in or on behalf of a Local Education Authority, a school, an FE institution or other education setting, in either a paid or unpaid capacity.

The term "allegation" means any information that suggests an adult has caused or may cause hurt or harm to a child or young person.

II. Overview

The vast majority of adults who work with children in education settings act professionally. They seek to provide a safe and supportive environment, which secures the well-being and very best outcomes for children and young people in their care. It is recognised that achieving these aims is not always straightforward. Much relies on pupil and staff interactions where tensions and misunderstandings can occur. It is here that staff behaviours can give rise to allegations being made against them. Allegations may be genuine, malicious or misplaced. They may arise from differing perceptions of the same event, but when they occur, they are inevitably distressing and difficult for all concerned.

Staff working in education settings have expressed concern about their vulnerability and have requested clearer advice about what constitutes illegal behaviour and what might be considered as misconduct. They have asked for practical guidance about which behaviours constitute safe practice and which behaviours should be avoided.

This document has been produced in response to these concerns. It seeks to ensure that the duty of care towards pupils and staff is promoted by raising awareness of illegal, unsafe and unwise behaviour. It is hoped that it will also assist staff to monitor their own standards and practice.

The guidance will also support employers in giving a clear message that unlawful or unsafe behaviour will not be tolerated and that where appropriate, legal or disciplinary action is likely to follow.

Whilst every attempt has been made to cover a wide range of situations, it is recognised that any such guidance cannot cover all eventualities. There may be times when professional judgements are made in situations not covered by this document, or which directly contravene the guidance given by their employer. It is expected that in these circumstances staff will always advise their senior colleagues of the justification for any such action already taken or proposed.

This document should be read in conjunction with the National Employers Organisation for School Teachers (NEOST) 'Guidance on Conduct', 'Preventing Abuse of Trust', and 'Staff Facing an Allegation of Abuse' jointly produced by NEOST and the six Teacher Unions. This document is also of relevance to LEAs and employers in education in respect of the requirements of Section 175 of the Education Act 2002 and the related guidance¹.

Finally, although the document has been written primarily for people working with children in education settings, it could be adapted for use in other settings eg youth work.

The authors of this guidance wish to acknowledge a range of source materials (see *appendix 1*). Thanks are also extended to those who took part in the consultative process and whose comments and contributions have informed both the structure and content of this document.

This document will be reviewed in July 2005. Any suggestions or comments about the contents or usage are welcome and should be sent to your IRSC co-ordinator or emailed to Linda.Richardson@ed.lancscc.gov.uk.

¹ Safeguarding Children in Education September 2004 Ref: DfES/0027/2004

III. Underpinning Principles

- The welfare of the child is paramount (Children Act 1989).
- Staff are responsible for their own actions and behaviour and should avoid any conduct which would lead any reasonable person to question their motivation and intentions.
- Staff should work, and be seen to work in an open and transparent way.
- Staff should discuss and/or take advice promptly from their line manager or another senior member of staff over any incident, which may give rise to concern.
- Records should be made of any such incident and of decisions made/further actions agreed, in accordance with school policy for keeping and maintaining records.
- Staff should apply the same professional standards regardless of gender or sexuality.
- All staff should know the name of their designated person for child protection, be familiar with local child protection arrangements and understand their responsibilities to safeguard and protect children and young people.
- Staff should be aware that breaches of the law and other professional guidelines could result in criminal or disciplinary action being taken against them.

Developing Safe Working Practices for the Protection of Children and Staff in Education Settings

1. Introduction

Staff have a crucial role to play in shaping the lives of young people. They have a unique opportunity to interact with children and young people in ways that are both affirming and inspiring. This guidance has been produced to help staff establish the safest possible learning and working environments. The aims are to safeguard young people and reduce the risk of staff being falsely accused of improper or unprofessional conduct.

This means that these guidelines:

- apply to **all** adults working in education settings whatever their position, roles, or responsibilities.

2. Status of Document

This guidance has been produced by the IRSC* national network. It does not replace or take priority over advice or codes of conduct produced by Local Authorities or other sources. It underpins and complements guidance jointly produced by NEOST and the six Teacher Unions². The document therefore may inform and assist LEAs and employers in education to develop and review their guidelines on safe working practices in line with the requirements of Section 175 of the Education Act 2002 and the related guidance 'Safeguarding Children in Education'.

**Investigation and Referral Support Co-ordinators are funded by the DfES. Their role is to support the development of best practice in child protection, especially where it relates to allegations against education staff.*

3. Duty of Care

Teachers and other education staff are accountable for the way in which they exercise authority; manage risk; use resources; and protect pupils from discrimination and avoidable harm.

This means that adults should:

- understand the responsibilities, which are part of their employment or role, and be aware that sanctions will be applied if these provisions are breached
- always act, and be seen to act, in the child's best interests
- avoid any conduct which would lead any reasonable person to question their motivation and intentions
- take responsibility for their own actions and behaviour.

All staff, whether paid or voluntary, have a duty to keep young people safe and to protect them from physical and emotional harm. This duty is in part exercised through the development of respectful, caring and professional relationships between staff and pupils and behaviour by staff that demonstrates integrity, maturity and good judgement.

LEAs, schools and parents have legitimate expectations about the nature of professional involvement in the lives of pupils. When individuals accept a role that involves working with children and young people, they need to understand and acknowledge the responsibilities and trust inherent in that role.

Employers have a duty of care towards their employees under the Health and Safety at Work Act 1974³ which requires them to provide a safe working environment for staff and guidance about safe working practices. The Act

² National Employers Organisation for School Teachers – Guidance on Conduct, Preventing the Abuse of Trust, Staff Facing an Allegation of Abuse

³ Health and Safety at Work Act 1974 Part I, Section. 2 (1) and (2)

also imposes a duty on employees⁴ to take care of themselves and anyone else who may be affected by their actions or failings. In this respect, the duty of care towards both staff and children can be demonstrated through the use of these guidelines.

An employer's duty of care and the staff duty of care towards children should not conflict.

4. Exercise of Professional Judgement

This guidance cannot provide a complete checklist of what is, or is not, appropriate behaviour for staff. It does highlight however, behaviour that is illegal, inappropriate or inadvisable. There will be occasions and circumstances in which staff have to make decisions or take action in the best interests of the child or young person which could contravene this guidance or where no guidance exists. Individuals are expected to make judgements about their behaviour in order to secure the best interests and welfare of the children in their charge and in so doing, will be seen to be acting reasonably.

This means that where no specific guidance exists staff should:

- *discuss the circumstances that informed their action, or their proposed action, with a senior colleague. This will help to ensure that the safest practices are employed and reduce the risk of actions being misinterpreted*
- *always discuss any misunderstanding, accidents or threats with a senior manager*
- *always record discussions and actions taken with their justifications.*

5. Power and Positions of Trust

As a result of their knowledge, position and/or the authority invested in their role, all adults working with children and young people in education settings are in positions of trust in relation to the young people in their care. A relationship between a member of staff and a pupil cannot be a relationship between equals. There is potential for exploitation and harm of vulnerable young people and staff have a responsibility to ensure that an unequal balance of power is not used for personal advantage or gratification.

This means that adults should not:

- *use their position to gain access to information for their own advantage and/or a child's or family's detriment*
- *use their power to intimidate, threaten, coerce or undermine pupils*
- *use their status and standing to form or promote relationships with children, which are of a sexual nature.*

Wherever possible, staff should avoid behaviour, which might be misinterpreted by others, and report and record any incident with this potential.

Where a person aged 18 or over is in a position of trust with a child under 18, it is an offence for that person to engage in sexual activity with or in the presence of that child, or to cause or incite that that child to engage in or watch sexual activity⁴

More detailed guidance is available in the NEOST/Joint Union Guidance on Preventing Abuse of Trust,⁵ and Sexual Offences Act 2003 Sections 16 – 22.

⁴ Health and Safety at Work Act 1974 Part I, Section.7

⁵ NEOST Guidance and Sexual Offences Act 2003 Sections 16 - 22

6. Confidentiality

Members of staff may have access to confidential information about pupils in order to undertake their every day responsibilities. In some circumstances staff may be given additional highly sensitive or private information. They should never use confidential or personal information about a pupil or her/his family for their own, or others' advantage (including that of partners, friends, relatives or other organisations). Information must never be used to intimidate, humiliate, or embarrass the pupil.

Confidential information about a child or young person should never be used casually in conversation or shared with any person other than on a need to know basis. In circumstances where the child's identity does not need to be disclosed the information should be used anonymously.

There are some circumstances in which a member of staff may be expected to share information about a child, for example when abuse is alleged or suspected. In such cases, individuals have a duty to pass information on without delay, but only to those with designated child protection responsibilities.

If a member of staff is in any doubt about whether to share information or keep it confidential he or she should seek guidance from a senior member of staff. Any media or legal enquiries should be passed to senior management.

The storing and processing of personal information about pupils is governed by the Data Protection Act 1998. Employers should provide clear advice to staff about their responsibilities under this legislation.

The booklet "What To Do If You're Worried A Child Is Being Abused"⁶ contains further guidance⁷ on sharing information to protect children.

7. Propriety and Behaviour

All staff have a responsibility to maintain public confidence in their ability to safeguard the welfare and best interests of children and young people. They should adopt high standards of personal conduct in order to maintain the confidence and respect of their peers, pupils and the public in general.

An individual's behaviour, either in or out of the workplace, should not compromise her/his position within the work setting.

The General Teaching Council for England's (GTCE) Code of Professional Values and Practice, which is now

This means that staff:

- *are expected to treat information they receive about children and young people in a discreet and confidential manner.*
- *in any doubt about sharing information they hold or which has been requested of them should seek advice from a senior member of staff*
- *need to be cautious when passing information to others about a child/young person.*

This means that adults should not:

- *behave in a manner which would lead any reasonable person to question their suitability to work with children or act as a role model.*
- *make sexual remarks to a pupil (including email, text messages, phone or letter)*
- *discuss their own sexual relationships with, or in the presence of, pupils*
- *discuss a pupil's sexual relationships in inappropriate settings or contexts*

⁶ What to Do if you are Worried that a Child is Being Abused. Department of Health May 2003

⁷ www.doh.gov.uk/safeguardingchildren/index.htm

embodied within the standards for Qualified Teacher Status, recognises that "Teachers support the place of the school in the community and appreciate the importance of their own professional status in society. They recognise that professionalism involves using judgement over appropriate standards of personal behaviour".

8. Dress and Appearance

A person's dress and appearance are matters of personal choice and self-expression. However staff should consider the manner of dress and appearance appropriate to their professional role which may be different to that adopted in their personal life. Staff should ensure they are dressed decently, safely and appropriately for the tasks they undertake. Those who dress or appear in a manner which could be considered as inappropriate could render themselves vulnerable to criticism or allegation.

9. Gifts

Staff should be aware of their Authority's guidance and/or school's policy including arrangements for the declaration of gifts received and given.

It is against the law for public servants to take bribes. Staff need to take care that they do not accept any gift that might be construed as a bribe by others, or lead the giver to expect preferential treatment.

There are occasions when children or parents wish to pass small tokens of appreciation to staff eg at Christmas or as a thank-you and this is acceptable. However, it is unacceptable to receive gifts on a regular basis or of any significant value.

Similarly, it is inadvisable to give such personal gifts to pupils. This could be misinterpreted as a gesture either to bribe, or single out the young person. It might be perceived that a 'favour' of some kind is expected in return.

Any reward given to a young person should be agreed practice within the establishment, consistent with the school's behaviour policy, recorded and not based on favouritism.

10. Infatuations

Staff need to be aware that it is not uncommon for pupils to be strongly attracted to a member of staff and/or develop a heterosexual or homosexual infatuation. All situations should be responded to sensitively to maintain the dignity of all concerned. Staff should also be aware that such circumstances always carry a high risk of words or actions

- *make (or encourage others to make) unprofessional personal comments which scapegoat, demean or humiliate, or might be interpreted as such.*

This means that adults should wear clothing which:

- *promotes a positive and professional image*
- *is appropriate to their role*
- *is not likely to be viewed as offensive, revealing, or sexually provocative*
- *does not distract, cause embarrassment or give rise to misunderstanding*
- *is absent of any political or otherwise contentious slogans*
- *is not considered to be discriminatory.*

This means that adults should:

- *ensure that gifts received or given in situations which may be misconstrued are declared*
- *generally, only give gifts to an individual young person as part of an agreed reward system*
- *where giving gifts other than as above, ensure that these are of insignificant value and given to all children equally.*

This means that adults should:

- *report any indications (verbal, written or physical) that suggest a pupil may be infatuated with a member of staff.*

