

Procedures for the Management of Allegations or Suspensions of Child Abuse against Teachers and other Employees

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Procedures for the Management of Allegations or Suspicions of Child Abuse against Teachers and other Employees

Teachers and school support staff are particularly vulnerable to accusations of abuse from pupils or their parents. Such allegations may be false or misplaced or the allegations may be true. For this reason, it is essential that everyone involved maintain an open mind in dealing with such allegations.

Where an allegation of child abuse, (as defined in section 2 of the Children First Act, 2015 and in The Children First National Guidance, 2017 - neglect, emotional abuse, physical abuse and sexual abuse) is made against a school employee in this context, employee also includes an unpaid volunteer.

The protection of children and their safety and well-being shall be the priority however, DDLETB also have a duty of care to employees. Any allegation/suspicion of child abuse made against a teacher or member of staff or volunteer in a school will be dealt with as quickly as possible, in a fair and consistent way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation.

Two procedures shall be followed when dealing with allegations/suspicions. These procedures need to be applied with common sense and judgement:

- (1) Reporting procedure to Tusla in respect of the allegation/suspicion;
and
- (2) Procedure for dealing with the employee.

In general, the same person shall not have responsibility for dealing with (1) the reporting issue and (2) the employment issues.

- The designated liaison person (DLP) is responsible for reporting the matter to Tusla, and
- DDLETB is responsible for the employment issue.

Where an allegation/suspicion relates to the DLP, then DDLETB shall assume responsibility for seeking advice from and reporting the matter to Tusla.

The first priority is to ensure that no child is exposed to unnecessary risk. DDLETB shall as a matter of urgency ensure that any necessary protective measures are taken, including where there is an urgent child safeguarding requirement, invoking its

Protocol Authorising Immediate Action. The overriding guiding principle that informs this protocol and its application is the protection and welfare of children.

It is important to note that actions under the protocol are intended to be precautionary and not disciplinary.

Tusla shall be informed as to whether the employee has been formally placed on administrative leave or where it has been decided not to place the employee on administrative leave; Tusla shall be informed of the alternative child safeguarding actions that have been taken.

Any action taken by DDLETB shall comply, as applicable, with the relevant provisions of employment legislation and relevant disciplinary procedures. The principles of natural justice and fair procedures shall be applied.

1. Procedure where an allegation/suspicion of child abuse is made against a school employee

As a general principle, it is recommended that DLPs seek up to date advice from the ETB's senior management team and Tusla, to ensure that the correct action is taken.

- 1.1 Once a disclosure is made, the DLP shall immediately act in accordance with the reporting procedures. The person receiving it shall make a written record of the disclosure as soon as possible.
- 1.2 School employees, other than the DLP, who receive allegations of abuse against another school employee, shall report the matter immediately to the DLP.
- 1.3 Where the allegation relates to the DLP, the matter shall be reported to the Chief Executive (CE) and the CE shall assume the role normally undertaken by the DLP.
- 1.4 School employees who form a suspicion regarding the conduct of another employee shall consult with the DLP. If the DLP is satisfied that there are reasonable grounds, he/she shall report the matter to Tusla immediately. A report shall be submitted to Tusla as a mandated report or joint mandated report.
- 1.5 Whether or not the matter is reported to Tusla, the DLP shall also inform DDLETB of an allegation of abuse against a school employee.

Initial Considerations

Where an allegation/concern is raised, the DLP should immediately contact the ETB's Director of Schools, Director of Further Education and Training.

Actions to be agreed:

- What further information is required?
- Whether any immediate action needs to be taken to protect students
- When and what should the parents be told
- What should be said to the adult facing the allegation?
- Whether putting the member of staff on administrative leave is required ○
 Administrative Leave should not be an automatic response

Possible outcomes of the initial discussion:

- Referral to Tusla
- Referral to Gardai for investigation
- No Referral to Tusla and/or Gardai.

After consulting the ETB/Tusla, the person who the allegation is made against should be told about the allegation. The amount of detail should be agreed with Tusla and will range from the minimum (where a Tusla assessment and/or Garda investigation) to the greatest amount of detail following a no referral decision. The person should be told about the likely courses of action. They should be advised to contact their union representative and be provided with EAP supports available.

2. Procedure for dealing with the employee

DDLETB have a duty of care to its employees and will act to manage and minimise the stress inherent in the allegations process. Support for those involved is vital in fulfilling this duty.

- Employees shall be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by Tusla or the Gardaí.
- Employees should also be advised of services provided by the ETB's Employee Assistance Programme.
- Every effort will be made to resolve cases as quickly as possible. Individuals shall be treated fairly and will not be judged in advance of a full and fair process, in accordance with the relevant procedures.

DDLETB will make every effort to maintain confidentiality at all times while an allegation is being investigated or considered. The identity of individuals shall not be disclosed, other than as required under the reporting procedures.

- 2.1 The ETB shall arrange to privately inform the employee that an allegation has been made against him/her, the nature of the allegation and whether or not the allegation has been reported to Tusla.
- 2.2 Once the matter has been reported to Tusla, the employee shall be offered the opportunity to respond to the allegation in writing to DDLETB within a specified time. The written response shall also be passed to Tusla.
- 2.3 The ETB will take legal advice as to whether disciplinary proceedings should proceed or be stayed pending the conclusion of the Tusla assessment/An Garda Síochána investigation, if involved.
 - The CE will make a decision on whether or not to proceed with disciplinary proceedings in light of that advice.
 - The decision to stay disciplinary proceedings pending the outcome of any Tusla assessment and the reasons for that decision shall be communicated to the employee.
 - In the communication, the ETB shall make clear that (a) it reserves the right to continue disciplinary proceedings at a later point or once the Tusla assessment/An Garda Síochána investigation is complete irrespective of the outcome of that assessment/investigation. (b)
 DDLETB may have regard to the outcome of any such assessment/investigation in deciding what, if any, disciplinary action to take.
- 2.4 Where a decision is made to stay disciplinary proceedings pending the outcome of a Tusla assessment and/or an An Garda Síochána investigation, insofar as is possible, the employee shall be kept up to date on progress.
- 2.5 Any action taken by DDLETB, including disciplinary proceedings shall be handled in the strictest confidence. The principles of due process, fair procedures and natural justice shall be adhered to by DDLETB.
- 2.6 Any disciplinary action shall accord with established disciplinary procedures and shall only be taken following consultation with Tusla and An Garda Síochána, if involved.
- 2.7 Whilst DDLETB has the right to conduct its own disciplinary investigation independent of any Tusla assessment or An Garda Síochána investigation, the ETB shall take care to ensure actions do not undermine or frustrate any assessment/investigation being conducted by Tusla or An Garda Síochána.

Child Protection Protocol Authorising Immediate Action

The following protocol authorises immediate action under section 7.2 of the 'Child Protection Procedures for Primary and Post Primary Schools 2017'.

Post-Primary schools and primary schools under the patronage of an ETB

- (A) In the context of these procedures, where circumstances warrant it, as an essential precautionary measure in order to protect the children in the school, the school principal is authorised by the school management authority to direct an employee to immediately absent himself or herself from the school without loss of pay until the matter has been considered by the employer. It is very important to note that the action under the protocol is intended to be precautionary and not disciplinary. The action under this protocol is an interim measure pending the employer's further consideration of the matter.

The employee will be invited to a meeting with the principal, the purpose of which is to inform the employee of the allegation and the action being taken. The employee may be accompanied by an appropriate person of his or her choice and will be so advised.

In any event, the employee will also be advised of the matter, in writing.

The principal shall make a record of the meeting, which shall be retained on the relevant case file.

- (B) In the case of a school or college under the aegis of ETB, the decision to absent an employee in the circumstances outlined at (A) above will be taken by the Chief Executive of the ETB or a person to whom this authority has been delegated.