



## Safer Recruiting and Selection Policy St Luke and St Philip's CE (VA) Primary School

### Introduction

The appointment of any employee affects the quality of the service that person will help to provide as well as involving the commitment of a considerable sum of money. Appointment procedures are therefore one of the most important functions exercised by a governing body or by those to whom the governing body has delegated that function. Careful planning and preparation will help to achieve the best result and also ensure compliance with legal requirements.

The safeguarding of children is a priority for every school and the school's recruitment procedures must embody this principle at every stage.

The appointment of employees in schools with delegated budgets must proceed in accordance with employment law, including the various statutes and statutory instruments relating to equal opportunities in employment and also with legislation specific to employees in schools. This guidance on recruitment and selection will therefore take into account the provisions of the School Staffing (England) Regulations 2009 ([http://www.opsi.gov.uk/si/si2009/uksi\\_20092680\\_en\\_1](http://www.opsi.gov.uk/si/si2009/uksi_20092680_en_1)), the statutory guidance accompanying those regulations (<http://publications.teachernet.gov.uk/default.aspx?PageFunction=productdetails&PageMode=spectrum &ProductId=DCSF-01081-2009>) and the guidance on the child protection regulations published by the Department for Children, Young People and Families. The Government's most recent guidance 'Safeguarding Children and Safer Recruitment in Education' (<http://publications.teachernet.gov.uk/eOrderingDownload/Final%206836-SafeGuard.Chd%20bkmk.pdf>) is currently under review. The appendices to the model policy include the relevant sections from the Government's guidance together with subsequent changes (notably the establishment of the Independent Safeguarding Authority and changes on migrant workers).

Subject to legislative requirements in the School Staffing and School Governance Regulations, other regulations specific to schools, and general employment law, the governing bodies of schools with delegated budgets have the power to select employees. There are specific regulations, for example, requiring governing bodies to appoint selection panels for the selection of head teachers and deputy head teachers and to ratify the decisions of the panel. Detailed guidance on these regulations is available through the authority's special service for assisting schools with the recruitment of head teachers and deputies. Governing bodies are permitted, and advised in the statutory guidance, to delegate their powers of selection in respect of other employees to the head teacher.

Governing bodies are advised to adopt:

- The new model safer recruitment policy
- The revised model recruitment and selection complaints procedure

The model safer recruitment policy is accompanied by thorough guidance on recruitment and selection, including detailed checklists and forms to help schools with the practical implementation of the policy.

Schools have a duty to produce plans for equality in respect of race, gender and disability. These should cover employment and include the monitoring of recruitment and selection. The Government has produced useful guidance for schools at [http://www.teachernet.gov.uk/\\_doc/11059/Equality\\_legislation\\_\\_\\_guide\\_for\\_schools\\_V2\\_\\_2\\_\\_1.pdf](http://www.teachernet.gov.uk/_doc/11059/Equality_legislation___guide_for_schools_V2__2__1.pdf)

The authority is the employer of staff in community, voluntary controlled, community special and maintained nursery schools and will issue contracts of employment on the instructions of the governing body or those to whom the governing body has delegated its selection powers, subject always to the requirements of the school staffing regulations in respect of qualifications, registration (with the General Teaching Council), health and physical capacity, future registration by the Independent Safeguarding Authority, checks by the Criminal Records Bureau, and right to work in the United Kingdom.

## **SAFER RECRUITMENT POLICY**

### **Introduction**

The Governing Body of St Luke and St Philip's CE Primary School has adopted this Safer Recruitment policy in accordance with the School Staffing (England) Regulations 2009 ([http://www.opsi.gov.uk/si/si2009/uksi\\_20092680\\_en\\_1](http://www.opsi.gov.uk/si/si2009/uksi_20092680_en_1)), for the safe and legal employment of people to work in the school.

The Governing Body is committed to the welfare of children and young people in its care. It recognises that the legal requirements for recruiting and employing people to work in the school include provisions specifically to protect children from harm and that following these provisions is an essential part of its duty of care. It also recognises that the legal requirements for checking prospective employees' right to work in the United Kingdom protect those responsible for recruitment from fines for infringing the law.

The Governing Body has also adopted the model Child Protection Policy recommended by Blackburn with Darwen Council.

The Governing Body will ensure that all employees are made aware of this policy and the Child Protection Policy. It will publish them through its scheme of publication in accordance with the Freedom of Information Act.

### **Guidance on the law**

The Governing Body is committed to following the statutory guidance in 'Safeguarding Children and Safer Recruitment in Education' (<http://publications.teachernet.gov.uk/eOrderingDownload/Final%206836-SafeGuard.Chd%20bkmk.pdf>).

The Head Teacher is required to ensure that checks on the right to work in the United Kingdom comply with the requirements of the Immigration, Asylum and Nationality Act 2006 (see details explained in

<http://ebriefing.bgfl.org/content/resources/resource.cfm?id=6136&key=&zz=20090428154257572&zs=n#preventionofillegalworking> )

The Governing Body is committed to its legal duties and responsibilities in respect of equality in employment (for guidance see [http://www.teachernet.gov.uk/\\_doc/11059/Equality\\_legislation\\_\\_\\_guide\\_for\\_schools\\_V2\\_\\_2\\_\\_1.pdf](http://www.teachernet.gov.uk/_doc/11059/Equality_legislation___guide_for_schools_V2__2__1.pdf) )

### **Checks and recording**

The Head Teacher is required to

- Ensure that all required pre-employment checks on new employees, including casual and short-term employees, are made and completed satisfactorily before a formal offer of employment is made in accordance with the School Staffing (England) Regulations and other legislative provisions and that these checks are recorded in the required register (known as the 'single central record')
- Ensure that the required register (known as the 'single central record') is kept of the checks already undertaken on existing employees as set out in the School Staffing Regulations.
- Ensure that the required written confirmation of all required checks is obtained from agencies supplying staff to the school, including organisations providing specialist coaches or instructors and centrally managed teaching services providing staff to the school, and recorded in the required register ('single central record'), also that the identity of each and every person supplied by an agency is checked by the school before the person starts work for the school, as set out in the School Staffing Regulations.
- Ensure that self-employed people engaged directly by the school are subject to the same checks as would be the case if they were employed by the school.
- Ensure that the checks involve copying (or electronic scanning) each specified document as required, signing and dating the copy and placing the copy in secure storage in accordance with Data Protection legislation.
- Arrange for all volunteers to undertake an identity check, and clearance from the Criminal Records Bureau and Independent Safeguarding Authority as specified by that Authority.
- The Governing Body will ensure that these requirements are applied to the selection of a head teacher or deputy head teacher.
- The Governing Body commits the school to working with the local authority to introduce enhanced checks with the Criminal Records Bureau for all employees not hitherto subject to such checks at present and to establish a programme for re-checking employees every three years. It notes that the authority intends to introduce a three year rolling programme in 2010, subject to identification of funding requirements and authorisation by the Director of Children's Services.
- The Governing Body will ensure that it works with the local authority and complies with the requirements of the Safeguarding Vulnerable Groups Act 2006 to refer prescribed information to the Independent Safeguarding Authority when required to do so.

### **Risk assessment – enhanced criminal record certificate**

The Governing Body permits the commencement of employment before an enhanced criminal record certificate has been obtained only in justifiable circumstances approved by the Head Teacher following a risk assessment and provided that an application for such a certificate has been submitted. In each case the Head Teacher is required by the Governing Body to record the risk assessment and the decision, monitor the situation every fourteen days (as required by the statutory guidance on safer recruitment) until the enhanced certificate from the Criminal Records Bureau is received and to be accountable for the decision to allow the employee to start work.

The Governing Body concurs with the Criminal Records Bureau in not supporting the re-use of a check obtained for a job in a different school or organisation ('portability'), even if the check was undertaken recently. It acknowledges that the Head Teacher may refer to the existence of a previous check pending an application for an enhanced criminal record certificate as part of the risk assessment in justifiable circumstances.

### **The Authority's Criminal Records Bureau Panel and positive disclosures**

The Governing Body requires the Head Teacher to make any reports requested by the authority in connection with a positive disclosure obtained through a check with the Criminal Records Bureau.

The Governing Body expects the Head Teacher to take advice from the Authority's Criminal Records Bureau Panel on a positive disclosure from the Criminal Records Bureau, or such other persons as the Local Authority may determine from time to time and from the Authority's Employee Relations Team as necessary and refer the matter to the relevant committee of the Governing Body if advised to do so.

### **General recruitment procedures**

Where the Governing Body has delegated its power of recruitment and selection to the Head Teacher it requires the Head Teacher to ensure, as far as reasonably practicable, that

- every job description includes a statement that the employee is responsible for promoting and safeguarding the welfare of children for whom he or she is responsible or comes into contact.
- every person specification includes a clear statement about the requirements for any applicants to demonstrate their suitability to work with children and that this will include motivation, ability to maintain appropriate relationships with children, emotional resilience to challenging behaviour, and attitudes to the use of authority and maintenance of discipline.
- unless the Governing Body has adopted another application form complying with the statutory guidance, the school uses the current standard application forms prepared by the local authority or by the relevant church authorities.
- any gaps in education or employment, or discrepancies between information on the application form and references are investigated.
- at least two job-related written references, including one from the current employer or most recent employer (or training establishment in the case of a newly qualified teacher or school for a young person with no previous employment experience) or most recent employer in respect of employment with children, are always obtained **before** interviews take place and preferably before short-listing, that relevant questions are asked of the referee and employee in accordance with statutory

guidance and any discrepancies are investigated (having regard to the statutory guidance that it is up to the person conducting the recruitment to decide whether to accede to a candidate's request his or her current employer only if he/she is the preferred candidate after the interview but that this is not recommended as good practice)

- a job is never offered subject to satisfactory references and that if written references are not available before an interview selection of a candidate is deferred, with the panel adjourning and reconvening when the written references are available
- all persons invited for interview are informed in writing of the required pre-employment checks and asked to bring relevant documentation with them on the day of the interview.
- choose suitable people, all of whom have completed the required training in safer recruitment, to interview candidates with the head teacher or on the head teacher's behalf and that the interviews are supplemented by other tasks and assessment as appropriate.
- the recruitment and selection process is monitored in accordance with the Governing Body's policy on the various equality duties required of schools ([http://www.teachernet.gov.uk/\\_doc/11059/Equality\\_legislation\\_\\_\\_guide\\_for\\_schools\\_V2\\_\\_2\\_\\_1.pdf](http://www.teachernet.gov.uk/_doc/11059/Equality_legislation___guide_for_schools_V2__2__1.pdf)).

The Governing Body will also require selection panels for head teachers and deputies and any interviewing panel including governors to follow these requirements.

### **Safer Recruitment Training**

The Governing Body will arrange as necessary for some or all governors to undertake the training in safer recruitment specified in the School Staffing Regulations.

The Governing Body will follow the requirement in the School Staffing Regulations that at least one member of selection panels for head teachers and deputies and any other interviewing panel including governors has completed the required training in safer recruitment and that if selection has been delegated to the head teacher both the head teacher and any other employee assisting the head teacher with the interviews have completed the required training in safer recruitment.

### **Induction**

The Head Teacher is required to arrange for at least one of the School's Designated Senior Persons to introduce himself or herself to each new employee during that employee's first week at work and for subsequent induction to include suitable training in child protection. 20. This is in addition to statutory induction for newly qualified teachers and probation for new support staff.

## **RECRUITMENT AND SELECTION COMPLAINTS PROCEDURE FOR SCHOOLS**

### **Introduction**

As an equal opportunities employer the Governing Body of St Luke and St Philip's CE Primary School is committed to the elimination of unfair and unlawful discrimination in employment. It has adopted this procedure to support that commitment.

The procedure can be used by any internal or external applicant who feels that they have been unlawfully or unfairly discriminated against at any stage of the recruitment and selection procedure.

The Governing Body will ensure that all employees and potential employees are made aware of this procedure. It will publish the procedure through its scheme of publication in accordance with the Freedom of Information Act.

In line with the Council's Recruitment and Selection Code of Practice candidates should be given the opportunity to discuss the outcome of their application. Therefore, if on receipt of a complaint the person nominated by the Governing Body to deal with the complaint in accordance with this procedure feels that there is scope for informal discussion (and where this has not already taken place), he or she may offer informal discussion. Applicants may reject this offer without detriment.

Whether a person uses this procedure or not, she/he remains entitled to pursue an application to a Tribunal or Court of Law in respect of any statutory rights she/he may have under relevant legislation.

Complainants should note that if they wish to pursue an application to a Tribunal, they must do so within 3 months of the alleged event taking place.

A complainant may wish to seek advice or be accompanied by a representative of her/his choice. An existing employee of the school has the right to request to be accompanied by a trade union representative or another employee of the school.

All complaints will be treated in confidence. The making of a complaint will not affect an individual's future treatment in terms of recruitment, selection, promotion or services provided.

The Governing Body will make special arrangements where necessary for complainants with disabilities or special needs, such as difficulty with writing.

### **The Procedure**

The complaint, stating the grounds upon which it is made, must be submitted in writing to the clerk to the Governing Body within one calendar month of the event referred to taking place.

The Governing Body delegates the function of dealing with complaints to the chair of its staffing committee, or, if the chair has been involved in the process about which the complaint is made, to the Clerk to the Governors who will forward to the relevant Governor and, if the complaint goes to appeal under section 3 below, to the appeals committee. The delegation includes the power to "freeze" the recruitment process where appropriate and practicable (see below).

Within 7 working days of receiving a complaint, the governor to whom the function has been delegated should:

- acknowledge receipt of the complaint

- determine whether it is appropriate or practicable to "freeze" the appointment (see 5 below)
- commission an investigation from a suitable person not involved in the selection process for the appointment (taking advice from the HR if no suitable person is available within the school).

The investigator should follow relevant sections of the authority's guidance for schools on investigations (see appendix).

The investigator will be responsible for preparing a written report to the governor showing how the investigation was carried out, a summary of the evidence received and recommended action, including any available remedies (see section 4 below). This report will normally be presented within 10 to 20 working days of the investigation being commissioned.

On receipt of the report the governor will consider the evidence and decide on the appropriate action. If the complainant is an employee of the school the governor will follow section 3 of these procedures. Otherwise the governor, or the clerk to the governing body on behalf of the governor, will write to the complainant advising her/him of the outcome of the complaint.

### **Complaints from current employees**

This section of the procedure applies in the case of a complaint from a current employee of the school.

The governor will offer to meet the complainant, who has the statutory right to request to be accompanied by a trade union representative or fellow-employee. The governor will make all reasonable efforts to agree a date for the meeting with the employee, who should take all reasonable steps to attend. If the employee or the employee's companion cannot attend on a proposed date, the employee may suggest another date provided that the date is no more than five working days after the date originally proposed by the governor. This limit of five working days may be extended by mutual agreement.

At least five working days before the meeting the complainant shall be provided with a copy of the report of the investigator, subject to the provisions of the Data Protection Act, particularly as regard releasing information about third parties. The investigator and governor will be expected to take advice from the local authority on the provisions of the Data Protection Act in these cases.

The governor will arrange for a full record of the meeting to be kept.

Following the meeting the governor will consider what action to take in response to the report of the investigator and the comments made by the complainant during the meeting with the governor. If the complainant declines to attend a meeting the governor will make a decision on the basis of the report of the investigator. The governor, or the clerk to the governing body on behalf of the governor, will then write to the complainant to confirm the outcome of the complaint. The governor will also advise the complainant of the right of appeal.

The complainant has the right of appeal to the Governing Body's appeals committee. The complainant should be asked to notify the clerk to the governing body of his or her intention

to appeal within ten working days of receiving the letter confirming the outcome of the complaint.

The appeal hearing will be arranged and conducted in accordance with the relevant sections of the school's grievance procedure.

### **Remedies available when complaints are upheld**

4.1 If a complaint is upheld at any stage of the procedure the prime object of the governor dealing with the complaint or the appeals committee (as the case may be) of the Governing Body will be to offer a remedy which best restores that person's position within the recruitment and selection procedure subject to their powers of delegated management. It is not within the remit of the governing body to compensate any person with monetary award.

### **Use of the "freeze"**

Where appropriate and practicable a 'freeze' should be imposed on the recruitment and selection procedure whilst investigations are carried out. The decision to impose such a 'freeze' will normally only occur at an early stage in the recruitment and selection procedure. The governor dealing with the complaint should therefore consider:-

- (a) the apparent seriousness of the allegation and the evidence which suggests its substantiation;
- (b) whether a 'freeze' is practicable, having regard to action taken to fill the vacancy before the complaint was received;
- (c) the consequences to the operation of the school of the 'freezing' of the vacancy;

Advice on imposing a 'freeze' may be obtained from HR.

5.2 If a 'freeze' is imposed the governor dealing with the complaint will have discretion to determine the duration, subject to the extent of the investigation.



## **APPENDIX**

### **GUIDANCE FOR INVESTIGATIONS IN SCHOOLS**

This guidance is based on the Council's guidelines for investigations, with suitable amendments to take account of the governance of schools. In particular it is acknowledged that most schools do not have senior managers with special training in investigation skills and that many schools do not even have enough managers with the seniority and experience required who have not been involved in the alleged misconduct as witnesses or otherwise. This guidance therefore recognises that the functions of 'commissioning officer' and investigator may be undertaken by the same person, and that training, whilst desirable, is not obligatory. Head teachers and other members of the leadership team will have had the opportunity of training in aspects of management involving relevant skills, such as careful questioning. This guidance itself provides some training and should enable a senior manager in a school to conduct a satisfactory, thorough investigation acceptable to all participants and capable of withstanding the rigorous scrutiny of an employment tribunal.

A complaint about recruitment and selection procedures may contain an allegation of unfair and illegal discrimination and therefore the investigation must be conducted having regard to this possibility.

### **INVESTIGATION**

The governing body states in its policy that it requires an immediate, short, preliminary investigation of all allegations of misconduct, in order to establish that there are reasonable grounds for a full investigation. This guidance is concerned chiefly with a full investigation of a complex case.

The nature of the alleged misconduct will affect the type of investigation undertaken. Some incidents may be so straightforward and so obvious that, even though they are deemed gross misconduct, a short investigation will suffice. Others may not be counted as gross misconduct but involve perceptions and misunderstandings capable of different interpretations, even if there have been witnesses, and in such cases the investigation may take longer and involve more detailed enquiries.

Investigations should be completed between ten and twenty working days unless there are exceptional circumstances.

#### **Role of the commissioning officer**

When a complaint is received or an incident takes place which requires a full and detailed investigation an appropriate senior manager in the school, usually the head teacher, will undertake the function of a 'commissioning officer'. The commissioning officer will be accountable for commissioning the investigation, receiving the report which should include a summary, conclusions and agreed recommendations, and making arrangements for appropriate subsequent action. In schools where insufficient senior managers are available to separate the roles of commissioning officer and investigator both roles may be performed by the same person.

The commissioning officer will act on behalf of the governing body and in cases where the conduct of an employee is being investigated will be at an equivalent or higher grade than that employee. The commissioning officer will normally be the head teacher, but in cases in which the head teacher has been involved, for example because he or she is the person against whom the allegations have been made or because he or she has been the person

against whom the alleged misconduct has been perpetrated, another person should take the lead. When the head teacher's conduct is to be investigated, the procedure provides for the chair of governors to ask the appropriate HR manager to make the necessary arrangements. When the head teacher has been otherwise involved he or she should ask another member of the senior management team to act. If such a person is not available, the head teacher may approach the HR Manager for advice and assistance.

### **Key activities undertaken by the commissioning officer**

- To identify a suitable investigator (see comments above about the practicality of separating the roles of investigator and commissioning officer).
- Consideration needs to be given to the suitability of the investigator, including ability, availability, impartiality, training/experience and also to ensure that there are no conflicts of interest, real or apparent. Preferably, investigators should have undertaken appropriate training.
- The investigation may be undertaken by the line manager or by a person from outside the school.
- To give a thorough brief (known as the terms of reference) to the investigator.
- To assist the investigator with access to key documents pertinent to the case.
- To identify, where necessary, a key person within the school as a link for the investigator.
- To monitor progress of the investigation and ensure timescales are met.
- To receive the investigation report and, where appropriate, to decide whether the case should be referred to the head teacher or the governing body's disciplinary committee and, if so, to present that case in accordance with the disciplinary procedure.

### **Terms of reference**

The terms of reference should include:

- The nature of the allegation/complaint, including details of any specific incidents.
- Any relevant background information.
- The remit of the investigation (the aspects that need to be investigated and any that should be disregarded for the purposes of the investigation).
- A list of people to be interviewed initially. If there are witnesses to the allegations they should be interviewed by the investigator and will be expected to provide a signed and dated statement, except for pupils, who should be interviewed in accordance with the guidance for schools associated with the authority's Child Protection Procedures. The investigator may decide during the course of the investigation to interview more people. An employee making an allegation of harassment or with some other grievance will be encouraged to name witnesses for interview and the investigator must make every effort to ensure such interviews take place.
- Any relevant documents known at this stage that should be considered.
- Time limits for the investigation and writing of a report, including interim review dates to ensure that the terms of reference remain relevant as the investigation progresses.

### **Responsibilities of the commissioning officer on completion of an investigation**

Once an investigation is complete, the commissioning officer will meet with the investigator. The commissioning officer will determine whether he or she is satisfied with the substance of the report, that there is a direct correlation between the report and the conclusions/recommendations and that there is no bias. Where the roles of commissioning officer and investigator are combined, the person undertaking the investigation should consider his or her own report critically before proceeding further, taking advice from the Employee Relations Team if he or she feels that questions might be raised over the findings.

If the commissioning officer is not satisfied with the substance of the report (for example, there are questions over the findings) or if there are any issues requiring clarification, he or she will discuss these directly with the investigator.

Changes can be made to the report and recommendations as appropriate and agreed by the commissioning office. The commissioning officer will then take ownership of the report and is accountable for agreeing an action plan to implement the recommendations. When the commissioning officer is acting on behalf of the chair of governors, the commissioning officer will make recommendations to the chair of governors, who will be responsible for agreeing an action plan.

In cases of grievance or harassment the commissioning officer is responsible for arranging to meet with the complainant to discuss the result of the investigation and any proposed actions. The commissioning officer may determine that disciplinary action is appropriate and, if so, should present the case in accordance with the disciplinary procedure.

## **CONDUCTING AN INVESTIGATION**

### **Purpose**

An investigation is a structured, impartial process of evidence gathering in response to a specific allegation(s) regarding personal conduct. It should be carried out with terms of reference as described above.

### **Good practice**

All investigations should:

- Have timescales set in advance by the commissioning officer (as a target completion date rather than a rigid standard).
- Be conducted as soon as possible after the date in question
- Be conducted by someone with the necessary knowledge to understand the situation and implications and who also has the necessary degree of impartiality.
- Have a balanced approach and be conducted in a spirit of openness and fair play which avoids any bias.
- Be conducted using techniques which are sensitive to the individual situation and employees involved.
- Be undertaken in a logical and rigorous manner.
- Seek to explore rather than pre-judge.
- Seek to elicit facts (find out what actually happened rather than arouse emotional reactions on what it is thought happened).
- Be initiated and concluded in a timely manner, but not so as to compromise quality.

- Be based on a process which is respectful to everybody involved (the complainant, witnesses or individual who is implicated).
- Be seen as a learning process where appropriate feedback is given and harnessed for the good of the service.

### **Role of the investigator**

- Where possible to have received prior training in investigation skills and techniques
- To plan the investigation required in order to establish the facts of the case.
- To identify and gather relevant documents which provide facts concerning the alleged incident.
- To ensure relevant statements are taken which provide facts concerning the alleged incident.
- To produce and present to the commissioning officer a full report of the investigation, the facts established and make recommendations for remedy as appropriate.

### **Key considerations**

- Be aware of your own potential biases and assumptions and avoid any preconceived ideas.
- Develop an understanding and/or acceptance that different perspectives exist in the same situation.
- Have an understanding of equality legislation.
- Understand any policy of the school, such as the anti-harassment policy, under which the investigation is being conducted.

### **Process**

Ensure you have terms of reference from the commissioning officer.

Produce a plan, considering the following:-

- Are the terms of reference clear?
- Are you clear about the expectations of the complainant?
- Are there any policy implications?
- What are the potential equality issues/dynamics?
- Who needs to be interviewed, in what order and where?
- Who will confirm the interview arrangements (including advising interviewees who are employees of the school of their right to request to be accompanied by a chosen representative who is either a trade union official or another employee of the school)?
- Who will ask questions and who will take notes?
- What questions should you ask and not ask?
- What other information will be helpful?
- What is the expected timescale?

Conduct structured interviews and gather evidence (see Annex A)

Statements from witnesses

The investigator will consider whether it is appropriate to produce statements by recording questions and answers. In doing this you will need to have regard for confidentiality and the

difficulty that may be created if these are made available to all parties. If statements are taken they must be checked, agreed and signed. Annex A gives a suggested format allowing the interviewee to confirm that the account is accurate, make amendments or attach additional comments. If the interviewee makes changes or comments which you do not recall, a record should be made to that effect on the statement.

Review your plan and revise as required in the light of emerging evidence and practical considerations.

#### Collate and analyse the evidence

- Consider all the facts and evidence presented to you and analyse what can clearly be demonstrated as being factually correct.
- Make judgements on the 'balance of probability', i.e. given what you have found, how likely is it that the action(s) in question have occurred? You do not need to establish the case 'beyond reasonable doubt'.

#### Writing the report

A suggested format for reports on investigations is given as Annex C. Although each report is unique, there are some common rules to follow:

- Always include background information on the service within which the incident allegedly took place.

The report may be used eventually in an internal appeal process or by an Employment Tribunal, so it is useful to set matters in context.

- Keep it simple, well structured and rigorously written. Make clear which facts are incontrovertible, i.e. what happened, who was involved, when it happened and where, why and how. Draw attention to any differences in the accounts given of the same event.
- Number documents and statements gathered and for ease of reference use those numbers when referring to them.
- Consider the use of tables to compare the response of witnesses to standard questions. This makes it easy to absorb evidence and form a reasonable belief regarding the weight of evidence or balance of probability of what actually occurred.
- Careful proof reading is needed. Avoidable typing errors, spelling mistakes etc. will reflect badly on the rigour with which the investigation was conducted.
- Special consideration must be given when an employee requests access to the report and the report contains information about a third party. There could be a breach of the Data Protection Act 1998 if information is released about a third party. Simply removing the third party's name from the report may be all that is required, but this is not always the case. A balance must be struck between the right of the individual to access and the right of the third party to privacy. **With this in mind it is helpful to write the report in a way that enables it to be issued to all parties.**

Advice on confidentiality may be obtained by contacting the Employee Relations Team.

- If statements have been taken there is no requirement to send them out with the report. However, they will still need to be typed, verified and signed so that they are available if there is a request to see or use them at a later date.

## **PUBLISHING THE REPORT**

- Once completed, the report should be presented to the commissioning officer for consideration and action as appropriate.
- Ensure the report is marked 'Private and Confidential' to ensure that only the commissioning officer has access to it in the first instance.
- The commissioning officer will decide whether to support the findings or whether there are further issues to be explored or clarified by the investigator and will meet with the investigator to discuss the report. Changes can be made to the report and recommendations in agreement with the commissioning officer.
- The commissioning officer will then take ownership of the report and ensure that the recommendations in it are carried out.
- The commissioning officer will also be responsible for telling the complainant that the investigation has been completed and what is to happen.
- All sensitive information should be treated confidentially and meet the requirements of the Data Protection Act 1998. If there is to be a disciplinary case the report will not be released to the complainant, because of the confidentiality of disciplinary proceedings.

## **ANNEX A – INTERVIEW STRUCTURE**

Ensure interviews are held in a suitable place, where you will not be interrupted.

### **Introduction**

- Introduce yourself and outline your role in the investigation.
- Confirm details of the interviewee (name, job title, length of time with the school).
- Note the date and time of the interview.
- If the interviewee is an employee of the school confirm the name of the interviewee's representative (if the interviewee does not have a representative, confirm that he or she is aware of the right which he or she has as an employee to request to be accompanied and give him or her the choice of deferring the interview to another day and obtaining representation in the meantime).
- Describe the terms of reference for the investigation.
- If a record of the interview is to be made, tell the interviewee and explain that a copy of the record will be sent to him or her for verification.
- Ask if the interviewee has any questions before the interview starts.

### **Conducting the interview**

- It is vital that any investigation is dealt with sympathetically with due regard to the feelings and emotions of everybody concerned (including the alleged perpetrator).
- In cases of grievance or harassment, the complainant should be interviewed first with the aim of obtaining as much detail about the complaint as possible.
- Ensure that all persons attending interviews have been notified and informed of their rights to be accompanied by a representative.
- Interview all relevant persons using open (descriptive), closed, hypothetical and probing questions as appropriate.
- Do not lead interviewees or put words into their mouth.
- If the witness has already submitted a written statement at an earlier stage in the process ask that witness to confirm the accuracy of that statement and record any amendment or addition he or she may wish to make.
- Attempt to note accurately what is said and probe for clarification.
- Summarise information at intervals to check understanding and manage the conversation.
- Repeat what is said when necessary to ensure that there is no misinterpretation.
- As for demonstrations and diagrams if they can help you get a full picture.
- Pay attention to detail.
- When the alleged misconduct concerns something said or the complaint is one of verbal harassment, ask the interviewee to say or write the exact words spoken.
- Should any of the interviewees become distressed or aggressive suspend the interview for a short period or terminate it. In the case of termination consider how and when a fresh interview might be undertaken.
- In the case of a grievance or harassment, ask the complainant what kind of response he or she is seeking, without making any commitments.
- At the end of the interview ask if there is anything in relation to the investigation which the interviewee wishes to mention but which has not arisen during the interview.

## **Conclusion**

- If a record of the interview has been made by way of a statement, confirm that a copy will be sent to the interviewee for verification and signature and indicate how soon the interviewee should return the signed statement. Agree an address for this correspondence (the interviewee might prefer a home address rather than the school).
- Explain the plan for the investigation, including the planned date for submitting the report to the commissioning officer
- Explain what might happen after the investigation and any possible consequences for the interviewee.
- Ask the interviewee not to discuss the content of the interview and explain the possible consequences if confidentiality is breached.



## **ANNEX B –WITNESS STATEMENTS**

### **EITHER INVESTIGATION**

**NAME OF SCHOOL**

**DATE**

#### **Record of interview**

Name of Interviewee:

Job title:

Length of Service – time in job:

Name of employee’s representative:

Investigator:

Place of interview:

Date and time of interview:

In opening the interview the investigator introduces himself or herself and explains the role in the investigation. Explain the terms of reference and confirm that a written record would be made and a copy provided to the witness to verify its accuracy.

Record of questions and responses:

Interview finish time:

Closing: explain that a report would be written and submitted; explain how this might affect them.

Ask the interviewee to maintain confidentiality.

I agree that this is an accurate record of the interview

I have made changes and with those changes I agree that this is an accurate record of the interview

I have attached additional comments

Print Name of interviewee:

Signature:

Date:

**OR**  
**INVESTIGATION**  
**NAME OF SCHOOL**  
**DATE**  
**Witness Statement**

Name of Witness:

Job title:

Name of representative:

· Record of your recollection of what happened giving details on names, dates, and times where appropriate together with details.

Print Name of Witness:

Signature:

Date:

## **ANNEX C – FORMAT FOR REPORT**

### **Title of Investigation**

Investigation into the allegation(s) of XXXXXXXX

### **Terms of Reference**

Describe how the incident came to light and the scope / objectives of the investigation.

### **Purpose**

To establish if there is any evidence to support the allegation(s) / describe the methodology of the investigation.

### **Findings**

Background to the case

Outline of the case

Name of those interviewed

What evidence has been obtained?

Has evidence of other issues been uncovered that is substantial to the case?

Supporting evidence for the allegation (s)

Any conflicting advice

### **Conclusions**

What can be deduced from the evidence?

Consideration of Blameworthiness V Mitigating Circumstances

### **Recommendations**

Is there a case to answer?

Actions to be taken, by who? and by when?

**Name of the author of the report:**

**Position:**

**Name of the Commissioning Officer:**

**Position:**

**Date**

**Attachments**

List of supporting evidence e.g. statements, policies, diagrams, forms etc. date

## **Private & Confidential**

Dear Name

I am writing to confirm that a formal investigation is being undertaken in accordance with the recruitment and selection complaints procedure adopted by the Governing Body of \_\_\_\_\_ School, a copy of which I enclose for your information.

The allegation to be investigated is –

I will undertake this investigation and will need to meet with you as part of this investigation. I am writing to confirm that you are required to attend an investigation meeting on \_\_\_\_\_ at \_\_\_\_\_ hours. The meeting will be held at \_\_\_\_\_.

As an employee of the school you have the right to be accompanied by a representative of your choice, who is either a Trade union official or an employee of your employer.

At the end of the investigation a written report will be submitted for consideration and you need to be aware that this could lead to a disciplinary hearing.

Yours sincerely

Name

Job title

### **INVESTIGATION**

**NAME OF SCHOOL**

**DATE**

**Terms of Reference**

### **Title of Investigation**

Investigation into the allegations relating to recruitment and selection for XXXXXX

### **Purpose / Background**

XXXX has alleged that on (date) XXX did XXX \_ Nature of the allegation including details of any specific incidents.

### **Investigating Officer**

Name of Investigating Officer

### **Objectives and Scope of the Investigation**

To fully investigate the allegations made by:-

- Interviewing all persons other than pupils directly involved in the allegations / incidents.
- Interviewing any other persons other than pupils who may contribute evidence in relation to the allegations
- Look at documentary evidence that may be relevant to the allegations.

- Obtaining evidence to assess how all parties involved have conducted themselves during the event, looking at Policies and Procedures.
- To produce a written report to close the investigation detailing the findings, conclusions, and recommendations, including whether there is a case for disciplinary procedures.

Pupils should be interviewed in accordance with the guidance for schools associated with the authority's Child Protection Procedures.

### **Timescales**

The investigation will start on XXXX and is expected to be completed by XXXX. If any extension is needed to this timescale then you will be informed of this in due course. Between 10-20 working days, any extensions should arrange to meet with employee to explain reasons.

## **MISCONDUCT INVESTIGATION**

**NAME OF SCHOOL**

**DATE**

### **Investigation Plan**

- Are the terms of reference clear?
- Are you clear about the expectations of the complainant?
- Are there any policy implications?
- What are the potential equality issues/dynamics?
- Who needs to be interviewed, in what order and where?
- Who will confirm the interview arrangements (including advising interviewees of their right to be accompanied by a representative or friend)?
- Who will ask questions and who will take notes?
- What questions should you ask and not ask?
- What other information will be helpful?
- What is the expected timescale?

## **INVESTIGATION**

**NAME OF SCHOOL**

**DATE**

### **OPENING**

- Thank you for attending.
- Introductions.
- Explain that notes will be taken of the meeting.
- Explain the purpose of the meeting.
- Investigation is an impartial process of evidence gathering in response to an allegation, and is done to establish if there is a case to be answered.
- A number of questions will be asked to clarify the events of the day.

## **MAIN**

Main questions that need to be asked to go into here

Example,

- An incident took place on xxxx. Please can you tell me in your own words what happened on that day.

## **CLOSING**

- Is there anything else that you feel is important to this investigation that you would like to add?
- You'll be given a written account of this interview, to verify its accuracy. Please ensure these minutes are returned to us within 5 working days.
- When I have completed the investigation I will put together my report and establish if there is a case to be answered or not. You will be advised of this in due course.
- Ask the interviewee not to discuss the content of the interview and maintain confidentiality.
- Anything else.
- Thank and close meeting.

## **MINUTES CONFIRMATION/COMMENTS**

**Please tick and sign as appropriate**

I agree that this is an accurate account of interview

I have made amendments on the document and agree that this is an accurate account of the interview

I have attached additional comments

PRINT NAME:

Signature:

Date