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HOUSE OF COMMONS

MINUTES OF EVIDENCE

TAKEN BEFORE THE

CHILDREN, SCHOOLS AND FAMILIES COMMITTEE

ALLEGATIONS AGAINST SCHOOL STAFF

WEDNESDAY 17 JUNE 2009

MICHAEL BARNES, BLANK, AMANDA BROWN, PAUL KAUFMAN, CHRIS KEATES and JULIAN STANLEY

SIR STEVE BULLOCK, CLARE COLLINS, NICK GARGAN, FIONA HAMMANS, KATHRYN JAMES and ALAN MEYRICK

Oral Evidence

Taken before the Children, Schools and Families Committee

on Wednesday 17 June 2009

Members present:

Mr. Barry Sheerman (Chairman)

Annette Brooke

Mr. David Chaytor

Paul Holmes

Mr. Graham Stuart

Mr. Edward Timpson

Derek Twigg

Examination of Witnesses

Witnesses: **Michael Barnes**, National Secretary, FACT (Falsely Accused Carers and Teachers), **Amanda Brown**, Head of Employment, Conditions and Rights Department, NUT, **Paul Kaufman**, Partner, Wiseman Lee LLP, **Chris Keates**, General Secretary, NASUWT, and **Julian Stanley**, Chief Executive, Teacher Support Network, gave evidence.

Q1 Chairman: I welcome our witnesses to the Committee: Amanda Brown, Chris Keates, Julian Stanley, Paul Kaufman and Michael Barnes. We always appreciate it when people come and help us with an inquiry. Unusually for us, as we seem to be in the middle of a series of long inquiries at the moment, this a very short inquiry. We believe that there is a lot of interest in this subject, both in the teaching profession and elsewhere. So, it is something that we think needs an airing in front of the Committee. Thank you for volunteering to assist us.

We have had about 30 written submissions on this subject and they have been most useful as well. We have been a little disappointed by the lack of evidence from one or two sources that we expected to be more helpful, particularly the Department. We are reasonably well informed, but we will end up better informed after today.

I am going to ask all of you this question, but I am going to start with Chris Keates; some of you will have to wait to catch my eye. How much of a problem is this?

Chris Keates: This has been an ongoing problem. The NASUWT has been tracking this since 1991, we have done 18 years of work on this. I think I am right to say that we are the only union that has a database that goes back that far showing the issues relating to allegations made against staff. It is a problem and if you have had the opportunity to look at our statistics, bearing in mind that we are only one of the five teaching unions, you can see that this has been on the increase since 1991 in terms of allegations that have been made. The overwhelming majority of the allegations were found to have had no substance; only a tiny percentage of allegations have substance. As far as the profession is concerned, it is something that teachers raise as a concern-it is actually raised by graduates thinking of entering the profession, who have heard of allegations being made-and it is something that crops up quite frequently. When we go into schools where there are behavioural issues, staff tell us that pupils frequently say to them that if they were to make an allegation then the member of staff could lose their job. There is a real issue and climate in the schools and I think teachers and head teachers will welcome the fact that you are looking at this detail.

Q2 Chairman: Paul Kaufman, there is a smack of guilty until proven innocent in some of the cases that have come across my desk. Is that right?

Paul Kaufman: In my experience, teachers certainly feel that they have been found guilty before the case has been heard. In the way that they are treated-by being suspended, by being arrested, by being fingerprinted, photographed and having their DNA taken-the whole approach suggests to them that they are assumed to be guilty and they have to prove that they are innocent.

Q3 Chairman: Julian, I am also picking up, certainly in the cases that I have been involved with as a constituency MP, that there are so many waves of investigation. One that I was involved with started with a police investigation, which found that there was no case to answer. When that was finished, the children's services had an investigation, which after many months found that there was no case to answer, and then there was a school governors' inquiry. Three inquiries, all of which said that there was no case to answer. The person involved was off school for a very long period of time; their health, particularly, was impaired. The upshot was that he had no case to answer from any of the investigations, but he still has all of that on his police criminal record. Is that typical?

Julian Stanley: Yes. There is a number of issues. Last year, at the Teacher Support Network we took around 132 calls on this subject. That is consistent with recent years. We are finding that people experience incredible emotional and psychological distress through this process. One of the things that the trade unions have worked very hard to do is provide adequate advice. We would like to see more of the kind of support that we offer, which is counselling and coaching, through the process, because, as you point out, it can be very long and protracted.

One of the other issues that the council has often come up against is that people are often concerned about what appears on a criminal records check later on and the damage-the potential damage-to careers later. So what is recorded, and how it is recorded, is particularly significant. I notice that the DCSF has begun to accept that the guidance might be amended in the longer term to improve education about what needs to be recorded for the sake of references in the future. We believe that, really, teachers need to have a part in what is recorded, particularly-obviously-if they are found innocent.

We don't want to return to a situation where children are not believed and parents' concerns are not addressed, but clearly the length of time that the processes take is of considerable concern, as is the distress it causes to families and friends, and teachers' standing within the school. Returning to work, if someone is found innocent, is quite a difficult process, because reputations are already damaged, relationships are already impaired, and coming back into that environment can be extremely difficult.

Q4 Chairman: Michael, what is your take on this? The fact is that certain people, like some of the children's charities-the NSPCC-don't agree with the views of most of the panel here. We have not got them in front of us today but they are very strong on child protection and children's rights and would hate to see any change in the situation. Does it worry you that the NSPCC is not with you?

Michael Barnes: It does worry me, but of course it is not just an issue for the NSPCC. It is a wider issue for the child protection sector. Unfortunately, as has already been suggested, there is an overwhelming presumption of guilt in the accused, and an overwhelming presumption of truth in the accuser. Simply by the law of averages there are going to be occasions when people make truthful allegations and there are going to be occasions when they make untruthful allegations. What I think would be more encouraging is if the child protection social workers and the NSPCC acknowledge that false accusations do occur. They are very reluctant to do so and I think that is a great pity.

If I could just comment on the CRB issue, the important thing about it is the way the information is fed into the police.

Q5 Chairman: Can we hold on that one, because we are going to drill down on it? I am only the warm-up-the real questions come in a minute.

Amanda, I am not going to let you escape. The NUT is not so worried about this as other unions-or are you?

Amanda Brown: Oh, we are worried about it, certainly. We would say that probably the number of allegations-certainly over the last 10 years, we feel-has stayed about constant at about 200 a year; but that 200 is the number of times we instruct solicitors to attend the police station. There are all sorts of other allegations that don't meet those criteria, so there are a lot more than that. But it is not just those. As Chris has said, the number that are actually found to be at fault, either in terms of a criminal allegation, or, otherwise, a professional allegation and misconduct, is very small. But it is the chilling effect it has for all teachers, and certainly particular groups of teachers, who are concerned, depending on their job and exactly what their role is in school, that they may be the subject of an allegation. The impact of that can be so great, as others have said, that even if people are not themselves the subject of an allegation, the fear is there. We are worried both for those who are accused and for the effect on the profession as a whole.

Q6 Chairman: So, Amanda, we don't really know the numbers-the Department doesn't know the numbers-if we take all allegations, because what you are saying, and what I think Chris Keates was saying in her written evidence, is that we know if it goes to the length of the police being involved and someone being charged, but we don't know those

ones that have been settled more locally, perhaps in-house or by the local authority doing a quick investigation. We actually don't really know the full numbers, do we?

Amanda Brown: We may well not know the full numbers, and there is also difficulty in definitions, because when people talk about child protection everybody assumes it is something to do with sexual misconduct, but almost all the allegations that are made against NUT members, and I would guess against all teachers, are actually about physical restraint issues and discipline issues. A tiny number have anything to do with sexual misconduct, and most of those are around computer issues-downloading of information, that sort of thing. There is a real difficulty in knowing the scale of the problem.

Q7 Chairman: It is interesting that when we did the inquiry into bullying, we pushed for there to be a register of all incidents of bullying in the school. The Department was very reluctant to keep a register. But it would seem that it is quite important to keep a register of allegations of any type in a school, so we actually know what the level is.

Amanda Brown: Very much so, because of knowing the scale of the problem and being able to define it. Also, particularly with child protection issues, if there is a large number of false allegations, which we say there is-I know that there is a dispute about that-there might actually be other issues behind that, which need to be dealt with. For example, we know that where there have been constant, or continual, allegations made by a few pupils, sometimes there is another issue behind that, which really ought to be looked at. If it is only dealt with in terms of the teachers and the people facing the allegations, there might be a real problem that we are missing.

Chairman: So, we are quite clear from the evidence we have had already that we all want children to be protected fully, but we also want a balance and a fair system by which allegations are effectively and, hopefully, quickly resolved.

I have warmed you up, and Graham is going to do the serious questioning.

Q8 Mr. Stuart: The Association of School and College Leaders has said that allegations are very rare in some schools and colleges but frequent in others. According to its report, it is less to do with the behaviour of teachers and more to do with the attitude of children and their parents. How can we resolve that particular issue?

Chris Keates: First, I am not sure that there is a strong evidence base for that. I know the Department for Children, Schools and Families did some work when they were reviewing the handling of allegations on where in local authorities allegations were actually from, and there did seem to be some schools that have more of these than others. That is absolutely true. I don't think we have got absolutely concrete evidence. I think the issue is not to get too sidetracked with that but to make sure that what we have got is a fair, open and transparent system for how these things are dealt with. They are all dealt with in a way that protects the interests of all involved, including the children and young people. There are clear procedures that are consistently followed.

The Department's guidance on handling allegations of abuse has been refined over the past few years. We were instrumental in getting the fast-track part of that. It has recently been reviewed and that has been published. It shows that it has made some improvement, but the big problem is that there is no consistency of application. People use their own procedures, and I think there is a case for making some of the procedures statutory at the school level as opposed to statutory at some of the child protection levels that are across local authorities with area protection boards and so on.

Q9 Mr. Stuart: But a reason to focus on this particular issue would be if schools with the biggest discipline problems-perhaps with the lowest performance and with the greatest challenge of attracting good teachers-also had the highest number of complaints. Is there any evidence of that?

Chris Keates: I have certainly not seen any evidence that there is that correlation, and I have not seen any strong evidence of a correlation necessarily with behaviour problems. Our experience of casework shows that we can get allegations in a school where our members have not reported any particular difficulties as far as behaviour is concerned. What we are dealing with is a very complex issue of what motivates some children and young people to make the allegations. With some it is a cry for help. They are in serious need themselves. For others, it is quite a calculated move to try to undermine a particular teacher for a real or perceived slight that they feel they have had, or the fact that they have been challenged for misbehaviour, so you have got those at both ends of the scale. I think we could get too focused on, "It is certain schools and it is another indicator of poor performance in this school." I don't believe that is the case.

Q10 Mr. Stuart: You said that in many cases it might be a cry for help. You would think that that would be more likely to occur in a school that already had the most challenging intake. Obviously, if there is an impact on the ability to attract and retain the best teachers because of a perceived lack of discipline, you would be further entrenching disadvantage. Does anyone disagree with Chris? Does anyone believe that there is no correlation, or is it simply that we don't have the data because there is not a definitive set of figures produced to show where complaints occur?

Michael Barnes: I think there is another issue here. In those schools where there appears to be a culture of complaints one needs to ask why that is so. It may well be that there is more to complain about, but it equally may be that within those schools the young people themselves-the students-have cottoned on very quickly to the fact that by making complaints they can achieve the outcomes they desire. There is a knock-on effect in some instances.

Q11 Mr. Stuart: The Department says it is rare for an allegation to be deliberately false and malicious and yet the NASUWT numbers show that of 2,231 concluded allegations

cases among its membership, only 105-approximately 5%-resulted in any action being brought against the teacher. The NUT numbers, although smaller, produced exactly the same result. Is the Department wrong, or am I reading the wrong things into your figures?

Amanda Brown: I think there is an issue about the definition here. We would take a false allegation as being one where there is no outcome that lays blame on the teacher. The DCSF, as I understand it, looks at a situation and asks whether there was anything that could have resulted in an allegation. So, for example, in a discipline issue, if a teacher has waded in to break up a fight in a playground, the DCSF won't treat it as a false allegation if they are cleared of any misconduct, but say that there was an issue. There was a nugget of factual information, which means that it was not a false allegation. There is a difference of definition there.

Q12 Mr. Stuart: Does anybody prefer the Department's definition?

Paul Kaufman: The Department does not provide any evidential basis for the presumption that it is rare. It just states it as a fact, without supporting it in any way. In my experience the great majority of allegations are exaggerated and fabricated by pupils.

Chris Keates: I think the DCSF's attitude highlights what I think is a real political tension. The political tension for a Department for Children, Schools and Families is being seen to accept that false allegations are being made against teachers in this highly charged area of child protection issues, which, of course, recently have been very much to the fore in the focus. There is sometimes a reluctance by authorities-be it local authorities or Government Departments-to be seen to come out and say, "Yes, there is this problem of false allegations," because it might be seen as trying to protect abusers, which the NASUWT has been accused of doing over the years by various groups. That is not the case at all. It is about making sure that there is justice for people and a proper investigation. That is one of the reasons why they dance on the head of a pin about what is a false allegation.

Q13 Mr. Stuart: Are the majority of allegations against male teachers and if so, do we need any form of gender-specific response?

Amanda Brown: Certainly in our experience they are generally made against male teachers. I don't know whether they are seen as an easier target or whether it is because of their greater involvement in playground watching duties. Certainly our experience is that most of the allegations are against male teachers.

Q14 Mr. Stuart: To what extent are disciplinary procedures more likely to be implemented and used against troublesome members of staff or supply teachers? I have a

constituent who felt that because they were in a very poorly performing school in a neighbouring authority and they raised their doubts about that with the management of that school they were hung out to dry when they left the room for 20 seconds and something happened in the classroom. They were drawn out by a lack of discipline in the corridor and yet they were suspended and effectively banned from teaching in two local authority areas. Is there any evidence to back up those fears?

Chris Keates: There is no doubt that some school managers are more receptive to complaints about some teachers. That is probably a fact of life across all organisations, and it becomes particularly important when it happens here. As we say in our written evidence, the whole issue of supply teachers needs separate consideration. I hope the Committee will look at that. There are some grievous injustices against supply teachers. Often they don't have what you might term their day in court. They are simply sent away from a school and never used again, their agency does not follow up with any procedures and there is nothing of any substance in the Government's guidance to schools and local authorities about how supply teachers should be dealt with. So there are real issues about supply teachers being able to clear their name, in a context where even teachers on the staff of a school have difficulty in clearing their name once they have been the victim of an allegation.

Chairman: We have to move on, only because we have so many questions to ask you.

Q15 Annette Brooke: It is my job to ask you about procedures. Please don't see this as a test, but the Committee would find it helpful if you would talk us through a typical sequence of events. We have a chart in front of us, so it does look like a test, but I am not sure this is right, so we really want to get a feel of what would typically happen. I presume you have a hierarchy of responses, depending on the severity of the case, but that might not be the case. Our chart starts with "allegation made and communicated to head teacher". I was looking at the unions to start with, just to give us a feel of what typically happens.

Amanda Brown: Although you have the chart of what is supposed to happen and the procedures as they are supposed to work, it doesn't always happen in that way. One of the problems that started to be flagged up earlier is that head teachers, who may, hopefully, deal with this once in their career, if that, won't necessarily be au fait with what they are supposed to do and will be looking at a quick guide. We would say that they should have much more training on how to deal with these things, because they will have to respond in an emergency situation where there are heightened fears and heightened tension. They need to prepare for that in advance, rather than having to work out what to do at the time.

As to how it might go, yes, an allegation might be made to the head teacher, or to another teacher, and it might be made to a designated teacher in the school who has responsibility for child protection, which could be the head teacher or somebody else. Occasionally, a parent will go direct to the police and we find that sometimes those

situations are much more complicated because it raises the stakes very early in the game if the parent goes directly to the police rather than raising it through the school.

If the allegation is raised with the school, the head teacher will then have to consider how to take it further and they will be told that they should be talking to the LADO, the local authority designated officer, and they will talk through the issues with the local authority officer. We are concerned that head teachers are not allowed to exercise more professional judgment at that time, because there will be times when a head teacher could say, "I know that this is manifestly absurd, I know that this could not possibly have happened and I am not going to raise the stakes by moving on to the next step in the procedure." We would like there to be, as there used to be, more of a role for head teachers to make a professional judgment. Was the teacher even on the school premises at the time? What happened? That sort of judgment.

The head teacher will talk to the LADO and decide what level of case it is: whether it needs to go to a multi-agency approach, whether other people need to be involved, whether it is a matter for the police and whether there is a potential criminal offence. That is another key point because, as I said, most of these cases are about restraint, about reasonable use of force, and if a dispute between a pupil and a teacher is over whether the use of force was reasonable, there is almost always a potential criminal offence there, because if a teacher could, potentially, have used too much force, that is a potential criminal offence immediately. That needs to be further clarified-if this was a playground problem, or a removal from class, where there is no real issue about assault, that should not necessarily be referred immediately to the police. You might want to talk it through, but it would not be a proper criminal referral.

Q16 Annette Brooke: I shall go all the way through, if that is all right, Chairman. The whole hierarchy.

Chairman: Go through the whole hierarchy, but don't call every witness for every one.

Annette Brooke: Just talk us through quite quickly.

Amanda Brown: Generally, after that there will be a question of whether or not the police are involved, whether or not social services or any other agency are involved and how it is dealt with at the school. The criminal investigation usually takes priority and will be considered first. The teacher will have been considered for suspension; I hope we will have the opportunity to talk to you about what happens in suspension, because that is critical for the individual. Some of what happens at the moment is not in accordance with good practice, and is not even in accordance with what is currently set out. An improvement to the guidance is currently planned, which is better, but suspension is certainly one of the real issues.

If a teacher is suspended, they may be called to a police station. As you will have seen in evidence that has already been submitted, attendance at a police station will usually be voluntary, although there is then an issue about whether the teacher will be arrested at

that stage. Our view is that that should not be the case. The criminal investigation will continue and witnesses will give statements that will be kept, which leads to another issue about whether those statements are then given to a later investigation at the school or, before that, at the social services'.

If there is a school investigation, which is where we at the unions are usually most involved apart from the general support that we give to our member, a new tendency is for the investigation to be subcontracted to an external body much more frequently. We feel that such cases should be dealt with in-house, as there are experienced people on child protection matters within children's services and local authorities. I think that the subcontracting of cases to children's charities or other agencies that have an interest in child protection is a response to the heightened concern and fear in view of the series of tragic, terrible situations that have happened in child protection. Again, that raises the fears and heightens the tensions around the whole issue, so that, in our experience, our members very much feel, when they are put in front of an investigator, bullied by the way in which they are treated by such investigations.

As others have said, the process of suspension can take a very long time. There is a criminal investigation, and there may be another social services investigation that can, in some cases, involve the teacher and their own children, so it may have an impact on their own family life because social services have concerns about their attitude towards, and behaviour with, pupils at school. We have had a member who had to sign a form stating that he would have no sole contact with his baby daughter for a year. He was not allowed to change her, be with her or feed her if the mother was not present. That was because of an allegation made at school, so there are considerable concerns about that and its impact on family life as well.

Finally, there will be a further investigation, namely the school disciplinary investigation, following which the teacher will be able to return to school if, as we hope, they are cleared. But again, as people have said, there is a real issue about rehabilitation at school. There are also concerns about people knowing that something happened and that somebody was away from school for a long period, but not knowing what has really happened, and voicing concerns such as, "Is there ever smoke without fire?" I think that that affects all teachers, but it particularly affects small schools in rural areas where the school is so much part of the local community that a teacher will almost be hiding behind their front door if they are suspended. If somebody sees them on the street, they will know that something has gone wrong at school.

Q17 Annette Brooke: Thank you very much for that. I am sorry that I made you speak for so long, but that was really helpful and you made some important points along the line. Following on from that, I would like to ask a question to the other members of the panel. There is potential for umpteen different investigations; is there any way of streamlining the investigation process so that the teacher is not faced with quite so many investigations? They could even end up being investigated by the new Independent Safeguarding Authority at the end of the day.

Chris Keates: The key part of the process is what happens during the initial stages and the decisions that are made at that point. That is the area in which we did the deep review of the 12 cases with the Department for Children, Schools and Families. We did the analysis, and all the issues that arise around those cases hinge on how well and quickly they are handled at the initial stages. Quite often, if those stages were more thorough and consistent, some of the cases would not move on to a later stage where they are found not to have the substance that would take them, for example, to a court.

From our point of view, each of those organisations that Amanda has mentioned has a role to play in certain aspects of the issue. What tends to happen is that if there has been a very messy start to the process-if it has been long drawn out, if there has been an inappropriate referral-that is when you start to get people getting it. Also, if parents, or whoever is making the allegation, have gone to external sources first-such as the police or social services-then you are actually not starting on a progressive process; you are starting in the middle of a process and everybody is already involved at a high level before you have had that initial investigation.

Julian Stanley: From a mental health point of view, one of our counsellors said it is a bit like having a driving accident: the longer it takes to get to the point where you are back at the wheel, the harder it is to get back. The whole thing about the start of the process is about providing some kind of support system, and that is what we aim to do. It is about people being robust enough to be able to engage in the process as it starts and to query and question. A number of people have raised the issue of training and the level of training that is available for head teachers and support and so on-training local authorities has been referred to. It is about taking the right action at the very beginning of the process and not knee-jerk reactions.

Q18 Annette Brooke: May I come in on a related point? Is the current guidance from the DCSF satisfactory, or does it need changing? Or if it is okay, is it just a matter of training everybody and making sure that it works properly in practice? In the first instance, do you think the guidance needs amending?

Julian Stanley: It certainly seems as though the process takes longer than the guidance actually sets out; that is the critical thing. It is taking much longer than is already in the DCSF information. As has been pointed out by Chris-the unions are very good on this and it would be important to work with them on this-it is really important to strengthen the guidance in a more detailed process so that a more analytical approach is taken at the very beginning.

Chris Keates: In our written evidence we put in a series of key points where we think the guidance needs strengthening. There is no doubt that this current guidance is an improvement on what has happened in the past, but first of all it is non-statutory and secondly, there are areas that do need to be. But also, it is not just guidance; there must be support and training. Training is critical for governors, local authority people and head teachers right across the piece. That is missing at the moment.

Q19 Chairman: Shouldn't there be a simple little guide for every head teacher as to what to do in a case of this kind?

Amanda Brown: There used to be a simple-well, fairly simple- guide, certainly a shorter document, which was an agreement between all teaching unions and local authorities as to what head teachers should actually do if somebody comes into the office and says, "We have a child abuse problem".

Q20 Chairman: That doesn't exist any longer?

Amanda Brown: It does exist, but there are so many different documents and so many layers of different documents: you have national guidance, you have local authority guidance, you may have clusters of local authorities with different guidance, and then you will have maybe a school-level child protection scheme and policy. It would be very useful if there was one place-a guide that a head teacher can pull off the shelf immediately if there is a problem.

Q21 Annette Brooke: Obviously there are a lot of players in this. You have explained to us how complicated it is if the parent goes to the police, but is there a case for clarifying who has the lead role when it is clearly-let us say-a serious child protection issue? Should it not now be the local safeguarding board that takes it on? I say that because, while we are referring to local authorities, that is probably fairly straightforward with maintained schools, but a foundation school or an independent school might not necessarily accept the same leadership from the local authority. I just wonder who should really be getting a grip on a case locally, having the lead role and making sure that everything follows through properly on a complaint that is clearly serious has to be fully investigated.

Amanda Brown: First, local authorities do have the responsibility for child protection within their whole area, even if the school is an independent school. Although that does not always happen-again this is an issue of the disparity between what should happen and what does happen-they do have the technical responsibility for it. Local safeguarding boards have a very important role to play to ensure that everybody is doing their own part of that process. There are different agencies with different roles in the process, so the local safeguarding board can check that everybody is doing what they are supposed to be doing, rather than doing the work itself. Because there are those different procedures, it is right for the police and the social services to take their responsibility.

We would like to see the school, perhaps with the local authority, given a little more scope at head teacher level to undertake its role, without the matter necessarily leaving the school. Obviously, there are contractual disciplinary issues that need to be taken into

account. Every teacher in a maintained school will have a contract of employment with a local authority, so the disciplinary process will be within that context. They clearly have to keep that role, but you are right to say that the local safeguarding board should have an oversight of everything as it happens.

Michael Barnes: It is not an issue of leadership, but one of competence. The real problem is that, when it comes down to a formal investigation by an employer, the investigative officers are not well placed or well trained to carry out an independent investigation. There are lots of reasons for that, one of which is that in a sense, the process has already been hijacked-I think you will understand what I mean by that.

First, in many cases, there is likely to be a police investigation, and obviously that has to take priority. Secondly, there is likely to be a child protection investigation, and that will invariably start with a strategy meeting. At that meeting, guilt is very often attributed, even though not all the evidence is available and the person may not even know what they are accused of. The die is cast from that point. Employers need the confidence to obtain complete, independent scrutiny of all the facts and to act independently, regardless of previous inputs.

Q22 Mr. Chaytor: Let us pursue the question of independent investigators. Where do they come from? What sorts of people are appointed as independent investigators? Is it the case that they have only 10 days to carry out the investigation before reporting to the employer?

Michael Barnes: The answer to that is no. Arrangements vary across the country, and that is part of the difficulty. An independent investigator might be appointed simply because the case involves the line manager, head teacher or whatever. As has been suggested, a case might be farmed out to an independent agency, child protection group or body of that sort.

What is clear is that there is a great deal of confusion about the specific role of the independent investigator. I will give one illustration. In order for someone to demonstrate that they are an independent investigator, they are required to look at all the evidence that supports the allegation, alongside all the evidence that runs contrary to it. In my experience, it is rare for that second phase to actually take place. The train of thought is to look at evidence in order to find fault, which is grossly unjust.

Q23 Mr. Chaytor: What could be done to strengthen the nature of the investigation or the capacity of the investigators?

Michael Barnes: We need to reassert the independence of that role. That is the first thing. There needs to be a specific code of practice that relates to investigative practice. Many people only deal with this a few times in their career. They learn as they go along and often, although not always, fundamental mistakes are made. Such mistakes are very

difficult to recover from, so there needs to be an independent code of practice. There also needs to be wider recognition that on occasion, false, unsubstantiated or misleading allegations-whatever you want to call them-will occur.

If we can accept both of those things, and admit in the same sentence that both false and true allegations are made-and if professionals can do the same-we will get a shift towards a more balanced view of the whole issue.

Q24 Mr. Chaytor: To pursue that point, perhaps I could ask Paul the question about anonymity, which can be quite controversial. Is it realistic to argue the case for anonymity up to the point of conviction, rather than the point of charging? Is it realistic, feasible or practical to do so?

Paul Kaufman: Some participants in the court process are entitled to anonymity as matters stand. Teachers are not entitled to it, but it is something that can be practically achieved; it has been achieved in other areas.

Q25 Mr. Chaytor: What is the difference with teachers?

Paul Kaufman: I support teachers being granted anonymity. As I said, complainants in, for example, rape cases are entitled to anonymity. There is no practical obstacle to ensuring anonymity throughout a judicial process.

Q26 Mr. Chaytor: Picking up the point that was made earlier about the rumour mill going into overdrive shortly after an incident-was it Julian's point? Isn't that in conflict with what Paul said about the practical possibilities of achieving anonymity?

Julian Stanley: Anonymity is something people would desire. Whether it is possible to achieve, given the nature of schools, is potentially more difficult, but does that not again come back to how the matter is handled at the beginning of the process, and how it is being established? In a sense, from a lot of things that we heard today from unions, Teacher Support Network, and the experience of councillors, teachers and the people who have been through the process, to whom I have spoken, we know that things escalate quickly.

What we are arguing for is almost a kind of calming-down process to be instilled in the police, with the powers that they have, and in training for head teachers and local authorities, to be able to investigate more thoroughly and appropriately at the beginning to avoid it getting out of hand. I agree, however, that once an investigation started, it would be difficult to maintain anonymity in a school environment, where things spread quite quickly.

Chris Keates: There are two aspects, David, to the question you raised. A suspension, with someone being out of school, won't stop that rumour mill, and neither will anonymity. Anonymity was a big issue for us when investigations were taking months, and in some cases even years, before anything was done. The work that the DCSF did on the cases that we provided to them showed that the longer the investigation took, the more likely the case was to get into the media arena. Since investigations have been tightened up in the beginning, fewer cases have been exposed in the media, but that danger remains. Anonymity, from our point of view, is always about media exposure, which is a problem if there is a rumour mill in schools. Once you have been in the local press, you don't stand a chance, whatever the outcome is. That is the first aspect-anonymity.

However, most teachers say to us, and our evidence shows, that the biggest issue now for teachers is the soft information-how it is recorded and passed on in CRB checks. That is now blighting careers, whatever happens.

Chairman: Chris, there is a section on that next week, so don't go there because we are dealing with it.

Q27 Mr. Chaytor: You brought up the issue of suspension. The guidance says that suspension should be considered where there is concern that a child is at risk of significant harm. Is that threshold always applied, or is suspension used too easily in cases where there are no grounds for leaving the principle behind?

Chris Keates: Our view is that it is used too easily, particularly if you go back to the point that was made earlier. In those cases, we are talking about perhaps one incident of physical abuse, not about serious cases of potential sexual abuse. From working with our members, our evidence is that the outcome is still the same even though there might now be a greater period of reflection rather than a knee-jerk reaction. It is only recently-we have had two cases involving two local authorities-that not only has there been a suspension from the school, but there has been an attempt to ban those people from using public services, such as swimming pools, libraries and so on, because they were suspended from school. That is clearly an outrageous reaction, which undermines the idea of people being innocent until proven guilty. Fortunately, we have only had those two cases. I hope that practice does not spread.

In law, suspension is a neutral act, but it is not viewed as that by either anybody who knows somebody who has been suspended, or the person who is subject to the suspension. The longer the suspension, the greater the effect it has on health, well-being, family life and potential to return to their career, whatever the outcome of the investigation.

Amanda Brown: I agree with all of that completely. On top of that, the current guidance is that while someone is suspended, they should be told who they can contact at the school, who their contact person at the local authority is, how they are expected to deal with the fact that they may well bump into either pupils or colleagues from school and how that should be worked. They are supposed to be supported through that and given

advice on any other counselling they may require by their employer. That does not happen. Often, they are told they can have absolutely no contact with anyone at the school and must not speak to their friends. We have teachers who are married to other staff members who are told they cannot have any contact with people from the school. Obviously, that is completely ludicrous. There will also be teachers with children at the school.

Those are clear examples of how ridiculous that is, but it is also ridiculous that somebody who has been suspended for a particular issue should be told "You must have no contact." The impact on their mental health and feelings is that they have been isolated from everybody, they are considered a complete danger and must not be allowed out. When we are talking about allegations of which 95% are false, that is a significant impact on their mental health state and it is very unfair. That is partly to do with what is in the policies and procedures, but it is also to do with people not understanding how the process should be implemented.

Julian Stanley: I spoke to a teacher and a head teacher who had been through these processes recently. They mirrored the comments from those who have called the Teacher Support Network during these processes. What they all talked about was the fact that during suspension they were not allowed to consider alternative types of work. Some of them had worked in schools where theoretically, they could have gone into local authorities and advised on policy, done other kinds of work, or been given things to do at home. That would have enabled them to have a sense that they were not guilty at the start, they were still going through a process and they were still professionals who might return to work.

What should happen if you are suspended is critical, because, as stated, it is meant to be a neutral act. It is not viewed that way. To get back into work afterwards is particularly difficult. We would like to see the guidance improved by referring people on-not only to their unions, but for emotional support. You do have to work through a complex set of feelings and deal with your local communities, as well as the ramifications of being taken out of the school environment.

Q28 Mr. Timpson: May I return to the issue we touched on briefly at the start, about the recording of allegations? We have received written evidence that falls on both sides of the argument as to whether all allegations-unsubstantiated or not-should be recorded. You heard earlier from the Chair that the NSPCC takes the view that all allegations should be recorded, regardless of whether they have been proved or not, whereas the NGA takes the view that if an allegation has not been proved or is false, that should be the end of the matter.

There is a wider debate about databases and what should be recorded, but in terms of information that is recorded about allegations-is there a justification for unsubstantiated allegations to be recorded and if so, why? Secondly, while you are thinking about that, if recordings of allegations are to be deleted, who should make that decision and at what stage of the process should that happen?

Chris Keates: Particularly in the current climate in which we all work, and thinking about how issues work generally and how things are investigated under normal disciplinary procedures, you might have a disciplinary procedure, go through the process and find there was no case to answer. You would still have a record of that disciplinary procedure. It is difficult to argue that you would have no record at all.

More important from NASUWT's point of view, is how these things are recorded and, subsequently, how that information is used-when it is passed on, when it is not appropriate to pass it on and who is making that decision. A lot of work needs to be done on consistency of reporting in the various authorities-particularly in police authorities. In our evidence, we find the police are reluctant to say, "There is no case to answer." They will say, "There is not enough evidence to proceed," but that is actually much more pejorative in terms of being passed on than recording. The Home Office has done a lot of work on this, but at the moment it is down to the discretion of police authorities, although there is guidance across.

We think the key is how something is recorded, how the investigation is put out, and what the outcome is. There must be consistency about these recordings at school level, local authority level, in police authorities and in social services and-very important-about what then gets passed on for CRB checks. The climate in schools at the moment is such that if your enhanced disclosure does not come back completely clear, people won't take the risk of appointing you. If you are a teacher who has had an allegation made against you and you have been exonerated, that information is passed on, and your career will still be blighted. The focus should not be on whether information should be recorded, but how it is recorded and how it is passed on.

Amanda Brown: May I add to that? The NUT has a real opportunity now to deal with that problem. We have not talked so much about the reference material-the DCSF guidance on what should be passed on in references. There are two issues. One is about what should be passed on in references to new employers, and that comes direct from school, which again is about what information is kept.

A real opportunity has been provided by the introduction of the Independent Safeguarding Authority, which has been set up as an independent body to consider whether or not people are safe to work with children. It will look at everything on the police record-conviction and soft information, whether that is the "brown envelope" information that people don't even know about, or otherwise disclosed soft information. The authority will consider whether or not there is sufficient information to say someone is unsafe. If so, it won't register them as able to join the work force.

We think the missed opportunity is that the time to take away the unfairness is when employers-just at the point where they are deciding whether they are going to appoint someone to a post-see that disclosure and that soft information. They see the information the police have disclosed, because they feel they need to just in case it might be relevant, and it says, "An allegation was made. Insufficient evidence: no further action taken." That is factually correct. However, it leads everybody to read between the lines that this person is guilty of an offence.

If only the Independent Safeguarding Authority sees that, it can say, "Actually, there is nothing here. We will investigate this, find out what the person has to say about it and decide whether or not we think they are safe." If they are safe, we say that information should no longer be disclosed to an employer, because it has no relevance, no weight. The only weight it would have, if disclosed, is entirely disproportionate because it allows the head teacher to think, "If I'm choosing between these two people, do I choose the person who has nothing on their disclosure, or the person whose disclosure says, 'Well, just perhaps', because an allegation was made?"

The Government and Home Office have said that they still want employers to see the full disclosure, despite the Independent Safeguarding Authority's deciding on barring. Their justification for that is that it is only right that a head teacher should see whether someone has a conviction, such as dangerous driving, if they are going to drive the school minibus, for example.

We have absolutely no objection to employers seeing convictions. Our real objection is to the soft, unproven, potentially malicious allegations that have been made. Since that information will, from October, already have been through a process where an independent Government body has looked at it and decided someone is safe, we see absolutely no justification for that being passed on to the employer. That is a real change that could happen now, and could really change the position not only for teachers but for everybody who has to be registered with the Independent Safeguarding Authority, which is something like 11 million workers in the UK in the health sector, local government and across the board. That is something that could be done now to completely change the picture.

Q29 Mr. Timpson: Does everyone agree with Amanda's view-correct me, Amanda, if I have got your interpretation wrong-that the ISA should in effect be the final decision makers of what should be on this CRB enhanced check supplementary information, where it is relevant to child protection? If not, how would we ensure that the police's use of terminology currently on those CRB checks is phrased in a manner that is not loaded in the way that Chris has suggested it is, and as it would appear at face value to be to me too?

Chris Keates: I think that Amanda has identified a potential way of stopping information doing the rounds when there is no substance to it. However, that still does not remove the need for consistency of reporting, because you could still get a problem with the ISA and the information that is going to it. I certainly think the idea is worth exploring, but I still think that the fundamental issue is how things are recorded, what is recorded, who has access to it and where it is passed on. The key area-where we get most problems-is what is kept on police files where there have been investigations.

Q30 Mr. Timpson: Is this another area that would need more robust guidance?

Chris Keates: We have been campaigning for this for a long time. *[Interruption.]* Sorry, we are so passionate about this particular issue. How this information is recorded and what gets passed on by the police is absolutely critical.

Julian Stanley: I think that it is worthy of much further investigation. As Chris and Amanda correctly said, there is the whole business of who records what and what is finally decided. Consistency is all. A lot of teachers who talk to the support lines that we operate talk about the fact that they want to know what is going to be on their records and they want to be able to have some input into that process if they have been found to be innocent, because that is critical for their future career.

Amanda Brown: That is a really important point, because quite often we have had members who have not actually appreciated what is on their record. We now have to advise people-in fact, we have to think about whether we advise them-that if they are thinking of changing from one post to another, they should think about seeking information from the police, using a data subject access request, to ask what is on their record first. That is because sometimes people won't know that it has been reported that an investigation has been carried out. They have not even appreciated that because it has been dealt with at such a low level in school, but it has still been reported.

Julian Stanley: I heard of a particular case where the police recorded stuff but people did not find out until much, much later when they applied for a new job. That was over something that was not significant in relation to their ability to carry out the work, which raises a big concern. We are all in agreement that we need some kind of criminal record checking, but there is this business of the lack of transparency about what is recorded by the police.

Amanda Brown: We had a case where someone-

Chairman: Amanda, you must be brief, as Paul has been waiting.

Amanda Brown: I'm sorry.

The person was unable to get another job as a teacher. However, he was accepted in the Metropolitan police. That is the effect of having that information disclosed; you cannot work as a teacher, but you can get a job in the police.

Q31 Chairman: The report goes back to the chief constable in each area, doesn't it?

Paul Kaufman: Yes. I wanted to identify the practical problem that has been touched on, which is that the teacher won't know what is on the CRB report, perhaps until they apply for another post, which might not be until, say, 10 years after the investigation. By that time, the solicitor's file is likely to have been destroyed-you only have to retain such a file for seven years-and the court transcript may also have been destroyed. So, in those circumstances, it is extremely difficult for a teacher who has faced a serious allegation to exonerate themselves.

Chairman: We are biting into the next session, so please answer very quickly.

Michael Barnes: In fairness to the police, they receive police intelligence, they make an assessment of that intelligence and they have a very good system for graduating that intelligence. The problem has occurred because issues that previously would not have appeared on an enhanced CRB now routinely do appear because of the Huntley situation-Soham. It may not be an issue for this Committee, but there needs to be an appeal process against information that is put on to the CRB, because at the present time it is entirely a matter for the chief constable. He has to make a judgment as to whether it is relevant and proportionate. If he believes that it is, he has a legal duty to disclose that information. In fairness to chief constables, as was said recently in the Court of Appeal, this is an issue for Parliament. It requires a change of law for the position to be changed.

Chairman: That is a really good point. Paul, we missed something didn't we?

Q32 Paul Holmes: On powers of arrest, Paul, you submitted some evidence suggesting that the police are too quick to arrest people-for example, if a teacher goes to give a statement voluntarily and is arrested. Do you want to elaborate on that?

Paul Kaufman: The police don't necessarily appreciate the awful situation that a teacher will find themselves in having been the subject of a false allegation. Sometimes, the police simply don't appreciate the impact of arresting someone. It is something they do routinely in relation to other suspects, and they don't differentiate teachers from members of the public generally. Teachers are particularly vulnerable because they are asked on a regular basis to deal, in effect, with policing in schools, where they have to restrain pupils who are increasingly ready to use violence. In addition, some pupils don't believe that they can be touched by a teacher, and therefore assume that a teacher who has physically intervened has committed an offence, so teachers are frequently falsely accused of assault when they have in fact intervened.

Q33 Paul Holmes: Constituents come to me when they have been arrested, perhaps after a neighbour dispute, and feel very aggrieved. They say, "It wasn't me, it was them, so why did they arrest me?" Can you really treat teachers differently to anyone else?

Paul Kaufman: Yes. If the police were arrested every time a member of the public complained that they had been assaulted by a police officer, the police would be up in arms. It is now an occupational hazard for teachers, who are expected to intervene in difficult situations for health and safety reasons and so on, to be accused of using force by pupils and parents who are under the misapprehension that teachers are not allowed to-

Q34 Paul Holmes: The NASUWT took a case to judicial review, and the police, just before it went to review, backed down and said, "Yes, this was an unlawful arrest." What will happen from there? Has that set a precedent?

Chris Keates: No, it is influential rather than precedential because it didn't get into the High Court. We have taken two successful cases, and yesterday we had another one that we are going to take to review as well, because this is happening so frequently. It is a simple matter of the police being trained to apply the provisions of the Police and Criminal Evidence Act 1984 in relation to teachers and, I would say, generally, in relation to members of the public, although we only know about this in terms of teachers. The provisions are there and are absolutely clear, but they are not being applied. People are going in voluntarily and co-operating, and are then finding themselves being arrested and having their DNA taken. There is a real issue about the training of the police in these circumstances. I don't think it needs new legislation; it needs proper application of existing legislation in relation to teachers and other public servants.

Q35 Paul Holmes: So, you are talking about code G of the 1984 Act, which says that the police must have reasonable grounds to believe that the person's arrest is necessary? Are you saying that they are clearly overstepping that?

Chris Keates: We have won two cases-well, they have settled, as you said-which indicates to me that they recognised that they have breached that and were going to lose if they got to the High Court. As I said, we had another case yesterday with the West Midlands police, so that is two with them. The other case was with the Lanarkshire police.

Chairman: Well, an Assistant Chief Constable will be sitting in your seat in a minute, Chris, so we will ask him.

This has been a rapid session and you have been absolutely fantastic. I think we have the information we wanted. We will write this short report up. If you could maintain your contact with the Committee, we hope to make it a good, short, sharp report that will help you to make a difference on the basis of the facts that we have been discovering. Thank you very much.

Examination of Witnesses

Witnesses: Sir Steve Bullock, Chair, Local Government Employers, Local Government Association, Clare Collins, Chair, National Governors' Association, Nick Gargan, Association of Chief Police Officers, Fiona Hammans, Association of School and College Leaders, Kathryn James, Senior Assistant Secretary, Policy, Politics, Education, NAHT, and Alan Meyrick, Registrar and Deputy Chief Executive, General Teaching Council for England, gave evidence.

Q36 Chairman: I think we are going to break into the Guinness Book of Records for a Select Committee's number of witnesses this morning, particularly as I believe that six of you are now going to be joining me. I am sorry that is such a squeeze but it is, again, a delight to have such a well-qualified group of witnesses in front of us. You will know the time constraints, and as I told the last group of witnesses it will be quite rapid fire. I shall look rather impatient if you go on for too long, but you are a distinguished bunch so I shall probably be very deferential.

Clare Collins, Alan Meyrick, Nick Gargan, Kathryn James, Fiona Hammans and Sir Steve Bullock, welcome indeed-particularly to Fiona. I remember that you were very helpful when we looked at education outside the classroom on a previous inquiry, so it is nice to have you back. Sir Steve, you haven't been in front of us before, have you?

Sir Steve Bullock: I have not.

Q37 Chairman: Welcome to you too, and to Nick Gargan, who came in at short notice. That was very good of you. We shall now get on; some of you have been sitting at the back and heard the first session, didn't you? Who didn't? Nick, you weren't there. Fiona? Good-some of you have been primed nicely.

We usually give people a chance to say something before we get started. I shall start with Nick Gargan, because we have just had some pretty interesting evidence that we'll drill down into in a moment. Let's ask you the general question: the Police and Criminal Evidence Act is pretty clear on when you arrest a person and when you don't, why does it seem necessary that a teacher who is happy to comply and goes down to the police station to be helpful, but still gets arrested? It is a significant moment in their lives. If you read the Act it's not necessary, is it? People don't have to be arrested.

Nick Gargan: I suppose it depends how you define necessary. In Thames Valley police, we arrest about 60,000 people each year and the idea of not arresting a significant proportion of them would cause us some real control problems. If you have somebody at the police station and they are wandering in and out-we interview them, they provide us with some information and then they disappear off-we may well want to check the facts. Knowing where people are gives us a degree of control to deal with issues that arise during their interview, evidence that they present, evidence we might seek to obtain, and other people that we might want to talk to. Arrest is an effective administrative mechanism for keeping hold of people and having them where we want them.

Q38 Chairman: But Nick, you know and I know that all the evidence shows that of the allegations of some form of misbehaviour in relation to teachers, only about 5% have ever been proven to have any substance. A teacher who has no criminal record, has not been in trouble with the police or the law at any time in their life, and is fully complying with your investigation, is still arrested. Surely, good common sense would suggest that teachers in that situation should normally not be arrested.

Nick Gargan: Indeed. Good common sense dictates that that happens most of the time. Most of the time we don't arrest people. In a very small number of cases, officers do arrest people. I think that arrests of teachers represent about 0.2% of the arrests in the Thames Valley policing area, and most of those relate to actions that take place off-duty and away from school. These are tiny numbers, and I suspect that, if anything, officers are more reluctant to arrest a teacher, in the same way as they would be more reluctant to arrest a police officer, a doctor or people in a comparable line of business. I don't think that we are particularly over-ready to arrest teachers, but on occasions it is necessary.

Q39 Chairman: Nick, I picked on you because that point came out very strongly at the end of the first session.

Sir Steve, you have heard some of the evidence this morning, do you perceive this as a problem, or do you think it's a storm in a teacup?

Sir Steve Bullock: I think that it is a problem, in two ways. Local authorities have a dual role. We have an absolute responsibility to safeguard children but we also have a duty of care to teachers who are in our employment or are working in schools that we have relationships with. That means that we have to think very carefully about how we get the balance right and how we give advice.

I was very struck by something that was said in the earlier session. The other part of it—other people might want to say more about this—is that the people who have to deal with these things, which will come up out of a clear blue sky, even if they have had theoretical training, very often won't have had any previous experience. We are expecting them to make judgments in a climate in which if you get the judgment wrong you are likely to be pilloried yourself. That is at the heart of it, and is why what I think we look to local authorities to do is to support both parties: to support the school, the head, the chair of governors and so on, but also to be sure that the teacher, or other member of staff, who is accused is getting their support. Trying to get that balance right is our challenge.

Q40 Chairman: Fiona, is there a problem here that we should be addressing?

Fiona Hammans: Our view is that there is a problem. Certainly, when we talk to colleagues nationally, there appears to be a presumption of guilt. I know you will have heard that in the evidence in the earlier session. If it is a member of school staff, it is almost more likely that there will be an arrest and a follow-through by the police. That is our perception.

Q41 Chairman: Kathryn, you also gave evidence on education outside the classroom. Both of you should be invited to the opening of John Clare's cottage on his birthday on 13 July. It will be a national centre for education outside the classroom.

Kathryn James: Excellent. Thank you.

Chairman: I like to get it on the record, you see. Kathryn, is there a problem here?

Kathryn James: Yes, there is a problem. Steve made a very interesting point about maintaining the balance, and that is where the difficulty lies. I think that the balance has shifted almost too far one way. There is always a pendulum swing. It is important that children are heard and their concerns are listened to and weighed properly, but I think that we have gone almost too far in this perception of guilt, with innocence having to be proven. That is a real concern. Things are exacerbated and move very quickly towards arrest-that is our perception.

Both Fiona and I come from a background where we manage the allegations set up and the organisation of any investigation, and our members are subject to those investigations, so we have a dual role. But it is undoubtedly a very difficult and complex area and I don't think that there is either sufficient experience or sufficient guidance in all fields. I would go across the board-teachers, head teachers, governors, the police themselves, as well as local authorities. Although there has been a rise in the number of allegations, there has not been a commensurate understanding that there needs to be additional training across the board.

Q42 Chairman: Alan, is there a problem, from where you stand?

Alan Meyrick: We have talked already about a sort of pyramid of allegations where, apparently, only the top 5% are ever proven. The General Teaching Council is only dealing with cases where the teachers have already been dismissed for misconduct in schools, or there have been relevant criminal convictions. From where we sit, there need to be good, clear, transparent procedures and good support given to those against whom the complaints are made and to those who are supporting those teachers-the head teachers, who need to deal with the management of the complaint, the governors and so on, and the employers. Proper support also needs to be given to those who are making allegations, so that they understand and have a proper expectation of what they should properly be doing.

With many pupils, if you give them a clear understanding of the seriousness of the allegations that they might be making, you will, hopefully, be able to manage some of those false allegations down so that the only ones coming through are those where there is something that needs to be properly investigated.

Q43 Chairman: Clare, you are from the National Governors Association. You are intimately involved in many of these cases. Is enough advice and guidance given to your members, in terms of how they behave themselves and handle such situations?

Clare Collins: Our issue is not with the guidance but with the training and advice that underpins it when you are into a case. A common theme that comes through-both from the previous session and already in this session-is that these things don't happen often, so the approach seems to be that we will deal with issuing advice and guidance and talking people through it when it happens, because you are on a long journey. But when it happens, it can be catastrophic, so that training should happen beforehand. We would be looking for head teachers to be trained as part of their induction to the profession, in the sense of, "This might not happen, but if it does, you need to know what happens." That is mentioned in some of the submissions that you have had, but nowhere is it mentioned that the governing body should be trained as well. I think that specifically, the chair of governors should be trained. If the governance review ever sees the light of day, there is an issue in there about chairs of governors getting specific training. What should be part of that specific training is, "Should this happen, this is what you will need to know." The thing is, you need to know it quite quickly when something happens.

Chairman: Thank you for that. Derek, you have quite a bit of experience in this field. Are there any general questions that you want to ask any of our panellists?

Q44 Derek Twigg: I wonder whether there is any evidence, where some schools do well and other schools do not, of some sort of networking? Have there been any sorts of discussions among schools to see where the process works pretty well in difficult circumstances and where it does not? Is there some pattern here, some behaviour?

Kathryn James: I think that a lot of it is based around the nature of the way the local authority works. Clare made an interesting point about head teachers and chairs of governors needing training. I would take it back even further and say that there needs to be some awareness raised, even as people are entering the profession, that they may face an allegation, because it would start to take the panic out of the situation. I think that there is an element of panic because these cases are so infrequent, albeit too frequent from our perspective.

Where incidents are handled well is where the local authority and the schools have a very good support system, a very good network and they offer training because they are aware of the developments within the community. That makes the whole process a lot smoother and does help move things along quickly.

Q45 Derek Twigg: Do you have schools that are good exemplars of how to deal with it?

Kathryn James: Yes, we have. We can send you some information, if that would help.

Derek Twigg: That would be useful.

Fiona Hammans: I agree with everything that Kathryn said, but it is the nature of the youngsters in the school that can also place staff at more or less risk. There is a

management style, there is a training need, there is following procedures and protocols accurately by all the different agencies involved, but there is also something about the nature of the youngsters in the school. There are schools where youngsters are more likely than those in other schools either to distract away from their own misbehaviour, shall we say, or to make malicious allegations to avoid things. That needs to be taken into account.

Q46 Derek Twigg: Do you think that you get enough support from local education authorities on that?

Fiona Hammans: Our evidence suggests that there is variability.

Clare Collins: I support that. There is huge variation in the level and the quality of support offered by local authorities. We have anecdotal evidence of that, not systematically researched evidence.

Q47 Derek Twigg: And what do the local authorities say to that?

Sir Steve Bullock: In one sense, some degree of variability is inevitable-authorities work out their own approaches in their own circumstances. What we seek to do is to offer them guidance-that is an area that we are looking at doing more in. What is certainly clear to me from experience in my own authority is that the initial reactions are critical, but that there are people within the authority-often legal people or HR people-who will have wider experience, and getting them into contact with heads, chairs of governors and so on is crucial. Not reacting immediately, but drawing breath is a very difficult thing to enshrine in guidance and practice. That is certainly our experience.

Chairman: We are now going into rapid fire, led by Graham.

Q48 Mr. Stuart: Is there any evidence that there is a higher number of complaints-we know that certain schools have higher numbers than others-in schools serving deprived areas?

Chairman: Would you catch my eye if you want to be the lead person in any question? Kathryn?

Kathryn James: I would not necessarily focus on the deprived areas. Picking up on something that Steve just said, the interesting thing is where, if something is dealt with perhaps in not the best way, that sets an ethos within a school and a school community. It is not so much deprived areas, because in some such areas the school is the absolute centre and fulcrum of that community and allegations are very few and far between; those that arise are dealt with extremely well and the parents and the whole community

know that that will happen. Of course, the converse is also true, but it is not so much the nature of the community as the whole ethos around the handling of the complaint in the first place.

Q49 Mr. Stuart: That is a good answer, but it doesn't answer my question. We have very large panels today, of which this is the second, and I cannot get a straightforward answer on whether there is any evidence-yes or no-of a correlation between complaints and deprivation. If there is not, then I could move on, but if there is, I would be interested in the exacerbating effect that that has on the ability of deprived area schools to attract teachers and to retain good teachers and, thus, on the entrenchment of disadvantage in those areas. That is what I am interested in, but that has to be based on evidence. Perhaps we just don't have it, but I would like to know whether anyone is aware of it. Is it not true, or do we not have the evidence?

Kathryn James: We don't have the evidence.

Nick Gargan: From a policing perspective, we can map our "busyness" against deprivation and, yes, there is clear evidence that there would be more reports, more vulnerability. However, on allegations against teachers as a specific subset of reporting, I don't have that data.

Chairman: We don't have any evidence, Graham.

Q50 Mr. Stuart: Okay. What scope is there to condense or to amalgamate the various investigative processes? Those of you who heard our first session, just how many investigations can there be?

Sir Steve Bullock: I was a bit taken aback by the example that the Chairman gave earlier, of the three successive investigations. That seems to me to be very poor practice. I would but it seemed to me that we, as local authorities, need to look at the guidance that we give. Equally, there are issues about the standard of evidence required for action. I suspect that is what is behind the difficulty. I would not want to try to answer that without talking to my lawyers first.

Alan Meyrick: I think we are quite fortunate in that the legislation that governs how we look at cases sets out very clearly the sort of evidence that employers need to provide to us. If there is some coherence across the collection and use of evidence in the early stages, that means that when we come to our investigation, which is looking at a very particular thing-whether or not the teacher should remain registered-we can use that evidence that has already been collected for previous purposes. The definition of what that evidence needs to be has been set out. If employers follow that guidance and those statutes, we get that evidence and we don't need to do too much further work.

Mr. Stuart: Nick, do you have any comment on that?

Nick Gargan: Few would dispute the need to keep the criminal investigation separate. Any changes to professional regulation would be quite separate from criminal investigation, but already we encourage our officers to obtain evidence in a way that can be shared and used for a dual purpose, such as professional hearings.

Q51 Mr. Stuart: Again focusing on you, Steve, but perhaps bringing in Clare as well, the emphasis in the last session was very much on the need for early judgment-we heard that it was the early stages where the key decisions are made that had great implications further on. What do you think the local authorities should be doing initially to ensure that the right early decisions are taken?

Sir Steve Bullock: In some ways it is actually not about taking early decisions. What the authorities need to do is make sure that whoever is doing that first investigation does not fall into the trap of assuming that because an accusation has been made, a crime has been committed. I think the authority is well placed to do that. We have to be neutral in the advice that we give. Once we are clear that there is a case to answer, the situation changes and we would want it to be pursued as quickly as possible. I think at that early stage, however, we have to counsel people against leaping to conclusions.

Q52 Chairman: Does that suggest a sort of conciliation process before any action is taken?

Sir Steve Bullock: There can be circumstances in which a complaint has arisen out of disciplinary issues-that may be part of it-but I was thinking more about the fact that most people don't get to deal with this, so they feel that it is a terrible thing, the worst thing that has ever happened. For the accused, it probably is, but in fact, it might go away, and the evidence is that in many cases it does go away because it was based on an allegation that was not necessarily malicious, but based on misunderstandings or teachers dealing, as we were hearing earlier, with complex disciplinary issues. We need to make sure that, in the early stages, we don't ramp the thing up, so that there has to be a major investigation. In those crucial first few hours and days, it might turn out to be a non-event. It is the local authority's officers who are able to do that, because they will have seen these things before.

Fiona Hammans: The initial phases of any allegation are critical for the whole school community. As Kathryn said, our members manage the school community more widely, as well as the individual student or parents who have made the allegation and the member of staff who has had the allegation made against them. If the local authority is the body that gives the advice, makes the decision and talks about the way forward for the investigation-or not-we want that to be communicated very quickly back to the school. That needs to be done equitably and fairly. We have already identified that there is variation across authorities, and that is inevitable, but some authorities go after school staff if an allegation is made, whereas others look at the balance between the allegation and the member of staff's needs and, as you said, make some kind of measured judgment

between the two. Our greatest concern is the variability in the system. The local authority might do an investigation and another agency-for example, the police-might take a different view altogether.

Kathryn James: One of the other issues, which you talked about, is the number of different investigations. There is a tendency to hit the investigation mill, and once it starts churning it is a long, slow and almost mechanistic process that takes away some of the sense. If I can give some anecdotal evidence, we had a member-in fact, we still have-who in September was suspended without anyone asking her for her version of an event. She is still out of school-almost an academic year. In that incident, she stopped an autistic boy jumping out of a window because he wanted to run away from school. No one asked her what had happened, because everything was confidential. It was suspension; it was a neutral act. When all the investigation mechanism chugged in, when it eventually went to CPS, they said, "This is absolutely ridiculous. No one would look at this and see any sense to it." Then it went to the local authority, who said, "Oh yes, but we need to investigate it," so the suspension was still not lifted. Eventually the suspension was lifted and the governing body said, "Now we need to have a look because the accusation was made in school."

Q53 Chairman: So the anecdote that I gave, that Steve thought was a little exaggerated, is actually right, isn't it?

Kathryn James: Absolutely.

Chairman: One waits for the other to be completed.

Kathryn James: Correct. And it just chugs on. It could have been dismissed within a week.

Clare Collins: We advise our members to look at the incident and see if it is credible, which is something that you can do in that first instance of it happening. There are cases where an allegation has been made against a teacher who was not in the school at the time. There are allegations made that are absolutely incredible. Therefore, in those few hours afterward-as you would deal with any disciplinary issue to do with a student or a pupil-you are advised not to take knee-jerk action. That is where I think there is an issue: people are frightened, so they respond in a knee-jerk way. It is a recurring theme of what we are all saying.

Q54 Mr. Stuart: Rather frightening a prospect, isn't it? We go from the suspension, which is a neutral act but everyone infers something, to arrest, which apparently is a neutral act but everyone infers something. You can see why the mechanistic process follows on, because if all those other things have happened, there must be something worth investigating, which is frightening for professionals.

Can I ask a general question? When we had the new Schools Minister in a couple of days ago, I asked him to look at all his decisions through a prism of how to attract and retain the best possible people in teaching. Can I ask you a very difficult, general question? Someone in the first session referred to the chilling effect. To what extent does the implication of what you expose yourself to as a teacher if you have allegations made against you-however rare-impact on the attractiveness of teaching as a profession for those coming into it? Do you have any evidence of that?

Chairman: A quick one.

Alan Meyrick: Crumbs, I'm not sure I've seen any evidence making a comparison with other professions. In the nursing profession, the Nursing and Midwifery Council deals with a lot of complaints from patients about the behaviour of nurses, and so that must impact on recruitment and retention within that profession. I am not aware of any evidence that particularly focuses on teaching, but that must be an issue. In the earlier session, people talked about the need for those involved in initial teacher training to help teachers to understand the expectations and the policies, procedures and structures that are in place to support them when allegations are made, and to avoid situations that might lead to allegations. I think there is a bit of that needed as well.

Kathryn James: We do have anecdotal evidence that people, particularly when they are considering taking up a headship, are put off such a role both by the allegations made against heads that hit the headlines and the responsibility of managing such a difficult situation. We have had a number of people saying, "I really don't want that level of responsibility, because I will be working with colleagues who I work alongside in school and taking on a difficult situation, and I know-I have seen it happen-so therefore I don't want the responsibility of managing that."

Chairman: I think we are going to move on.

Nick Gargan: Before we move on, can I rewind to a comment that Mr. Stuart made about arrest, and the idea of arrest as a neutral act? I would not want to leave that unchallenged. As part of preparing for this morning I dug out the lesson notes to find out what we teach our new recruits about arrest. Certainly, within policing, it is very clear from the training that they receive. The notes state: "To be arrested will be a shock to the person, especially if they have never been arrested before. It is an aspect of practical police duty that requires great care. When arresting people you will be depriving them of their liberty. This may have serious consequences if you are not acting according to law." That is a tone which is heavily influenced by the human rights legislation that is very much drummed into our officers, particularly those who are most likely to be effecting arrests in this arena. They are likely to be officers within specialist child abuse investigation units. To balance the impression that this morning's discussion may have created-that we would accept that there are too many arrests-I don't think that is necessarily the case.

Chairman: That is a good and fair point. David, we are going to drill down on this right now.

Q55 Mr. Chaytor: Can we go back to the question of the early stages and the role of suspension, because that seems to be key to many of the problems identified? What can individual head teachers do as alternatives to suspension, and are all teachers facing allegations given the opportunity to state their case before being suspended?

Fiona Hammans: They certainly should be. The change in employment law a number of years ago meant that if you were considering suspension, you should discuss it with that person's union representative and come to an agreed set of actions, because while suspension is neutral in law, it is never interpreted that way. There is a range of options open. Where there is an allegation from one child in one class about inappropriate behaviour of the teacher, you can change the teacher's timetable. If it is something more significant, you might be working from home-in other words, not being in school. You can do a range of things to secure the member of staff from further distress and harm to their well-being and, importantly, to make sure that the youngster sees that there is some response to the allegation, and that they are secured from any further harm. However, it is very difficult when you are in panic mode either as a head teacher, a governor, or a local authority. When you have the press banging on the door and the phones going, you think, "Right-suspend. It's dead easy, and looks like we've made a robust response."

Kathryn James: I think what Fiona says is absolutely right. Other options are available and, again, where schools work closely with local authorities, we have had instances where the authorities have, for example, used the teacher or head teacher in different areas and had them within the local authority, if that was felt to be appropriate. Whatever is said about suspension, it is never neutral. There is always the thought, "There's no smoke without fire." I think that the issue of anonymity in terms of any allegations has to rear its head, and we would argue strongly that there has to be anonymity.

Q56 Mr. Chaytor: But is that practical in a school setting?

Kathryn James: It is if other options are considered, because while there is always the rumour mill-we can never get away from it, and that is true in any situation-there is an element where it can be contained if other options are considered and used.

Q57 Mr. Chaytor: When the investigation starts, are you all confident that the balance of rights between the investigator and the accused is fair, or are the odds stacked against the accused when presenting information and developing the case?

Fiona Hammans: From the information we have through hotline, people phoning in extremis-or people saying, "I've got this situation in our school,"- very much feel the person who has had the allegation made against them is absolutely guilty, and that

person has to prove that they are not. That is the position you start from and the investigation manner quite often reinforces that. If you are talking about suspension on top of it, clearly you are guilty.

The other thing to remember is these colleagues have gone into a job within a setting that is all about trust, working with people and developing youngsters. They are giving of themselves personally. So when the allegation is made and they are investigated, it goes right to the core-not just the professional core, but the core of them as a person.

Kathryn James: I think the skill of investigation is underestimated. Fiona made the point that people go into education because they want to educate. They are not necessarily there to investigate serious issues. They may have the skills, but it is not something that is naturally incorporated in their training. If you are called on to investigate an incident, it is easy-in some instances-to see the case stacking up against a person, and not appreciate that you also have to look very carefully at the opposing evidence. That balancing act is not something that everybody is able to do easily.

Q58 Mr. Chaytor: So there is not a pool of registered investigators in each local authority, it is entirely up to someone to decide who the appropriate person is under the circumstances? Who decides who the investigator will be?

Clare Collins: It is ad hoc.

Sir Steve Bullock: It will vary according to the circumstances. It depends partly on the type of school-whether it is a primary or a secondary-and even on the nature of the allegation. If someone has found child porn on a laptop in school, there will have to be technical people and experts. Or it might be an issue such as whether a teacher struck a child. So there is no simple answer to that. It comes back to making the right judgment call, I'm afraid.

Q59 Chairman: But one individual must decide to launch the investigation. Within the local authority, who is that individual?

Sir Steve Bullock: In the first instance in most cases it will be the head teacher. In a community school, certainly in my own authority, I would expect the head teacher to consult with a senior officer in the children and young people's department, and depending on the nature of the allegation-possibly push it as far up as the director.

Q60 Chairman: But where is the local safeguarding board coming in on all this?

Fiona Hammans: As a head teacher, if I were to receive an allegation, I would have to make some judgment about its level of severity and seriousness, and so on. But if it is

something that is easy in the sense that there is clear evidence, or the allegation is serious enough to be able to pass straight on to the local authority designated officer, that person makes the judgment call about what happens, in what order and in what way. The difficulty arises-and the variability in response is-if the head teacher or a governor makes a decision and does not follow the protocols. It is about the protocols that are there to safeguard.

Q61 Chairman: But the only person with protocols is Nick Gargan-he read out what the police have to follow. If they can do it, why can't the teaching profession have that sort of guidance?

Clare Collins: There is a very real issue if it is the head teacher because the responsibility usually falls on to the chair of the governing body. I cannot emphasise too much how difficult it can be to get hold of the information; as a chair of governors, you won't have that on your shelf. It will be on a website somewhere, it might be password protected, and I have had someone from my local authority HR saying, "I'm not sure you want the whole document, it is rather long." I won't say what I said back, but that is the sort of thing you are dealing with. I think there was a suggestion earlier that there should be a small booklet that tells you what to do if the balloon goes up. That would be incredibly useful.

Q62 Chairman: No one came back to that question about the local safeguarding board. Where does it get involved? Does it get involved?

Clare Collins: I don't know.

Chairman: I am told it does.

Sir Steve Bullock: We will happily give you a written detail on that, but I think it depends on the nature of the allegation. If it is clearly child abuse and so on, that kicks in, but we will come back to you.

Q63 Chairman: What we are trying to get at is this: if an independent person is asked to look at the case, who chooses that independent person, and on what criteria? It is quite important, is it not?

Kathryn James: Picking up on what Fiona and Steve both said, it very much depends on the nature of the allegation as to who will make that decision. The local safeguarding board does come into play, but actually that is probably quite high on the level in terms of the severity of the allegation. There is a protocol that is in force, but there is a plethora of guidance, and none of it necessarily ties in with the protocol that is there. It was mentioned in the previous session. It is known as the CLEA guidance, and it is the

local authorities working with the teacher associations. It was a good piece of work. I think we have moved on a stage, but maybe that is something that ought to be revisited.

Q64 Mr. Chaytor: To clarify, in regard to who decides who will investigate, would it usually be the head teacher, or would it be referred up to the Director of Children's Services?

Kathryn James: If it is an allegation that is made to the head teacher, the head teacher would take that first decision, in terms of the severity of the allegation. Whether the head teacher would refer it up or whether they would allocate an investigator depends on the severity of the allegation.

Clare Collins: If it is the teacher whom the allegation is against, the governors would have to work closely with the local authority as to who is allocated the role of the independent investigator. They would be dependent on it to identify one. What I expect is that they would run it by the governing body.

Q65 Mr. Chaytor: It is still a little bit fuzzy as to exactly who has a legal responsibility to appoint an independent investigator. You are all saying that it varies according to the circumstances.

Sir Steve Bullock: We don't always appoint an independent investigator. It is only in relation to the most serious allegations that you would do that. I would not expect it to happen in my authority. I would expect, if it was a very serious case, a senior officer of the authority to be the person who carried out the investigation. So it is not always the case that you look for the independent investigator.

Nick Gargan: It is very clear who investigates, and in terms of the serious case reviews, we have a procedure for appointing, usually, a detective inspector from a separate local police area to come along and carry out the review. When you move into complex cases, we would refer to the joint Home Office-DCSF guidance, which is very clear and sets out the kind of strategic management board structure that we have activated in Thames Valley police over the last couple of years, but only on one or two occasions.

Chairman: We will move on to the question of arrest, which Edward will lead on. It is a pleasure to have you here, because the Committee very much believes that of the 10 departments that we follow in relation to the activities and lives of children and families, the police and the relevant departments are very important to us. We find in all our investigations, we need the co-operation of you when we look at the welfare of children. So it is very good to have you here.

Q66 Mr. Timpson: You already flushed out a little about the role of the police in any investigation involving teachers and, in particular, the issue of arrest. Can I draw you in a little bit more and ask you whether you would be opposed to the submission made by Paul Kaufman, the solicitor who was in the previous panel? He has put forward in his paper that, in relation to police investigations, teachers should be treated as a special case, and that clear guidance should be given to child abuse investigation teams to ensure that teachers are arrested only in exceptional cases, where it is necessary.

Nick Gargan: I didn't hear the evidence, but I have read his submission and I would make a couple of comments. First, there are lots of groups of people who would like to be treated as special cases; in a way our role is to put up with the noise of such people while maintaining an independence in order not to forget the victim's position and the interests of the wider community. I think that there is an existing, informal practice, which we pick up from discussions with child abuse investigation units and others, that people think carefully about arresting teachers. They think carefully about arresting anybody, but they already think especially carefully about arresting a teacher. I think that the way to deal with these odd cases that one hears about from time to time, where the power has allegedly been used carelessly or inappropriately, should be through the police conduct regulations, not through changing the rules about arresting teachers. The evidence that I have seen is that the police are very careful indeed.

I shall give you a sense of the figures in our policing area: Thames Valley police has 8,000 employees-4,000 of whom are police officers-we police a population of 2.2 million and we record around 200,000 crimes a year; those are pretty large numbers. We arrest about 70,000 people a year, not all for recorded crimes, and of those 116 are teachers. Many of those arrests are for other crimes: 20 are for drink-driving or possession of drugs, there are even a few burglaries and frauds in there as well. Those are not to do with their professional lives, but to do with criminality away from the workplace. This issue accounts for very few of the arrests made and it would be my contention that they are made, by and large, for very good reason.

Reading the submission from Mr. Kaufman that we are discussing, on occasion it might be that the police have some very good reasons for a course of action but it is not in our interest, or anybody's interest, to discuss those, confer or collaborate with the defence solicitor. Part of investigatory activity from time to time will be covert and we cannot announce it to everybody. The argument for making a special case is not supported by either the evidence or by good investigative practice.

Q67 Mr. Timpson: As a Committee, how do we square what you tell us with the evidence given to us by the NUT and the ASCL? They say that the police arrest teachers too readily.

Nick Gargan: We can look at the figures and the cases and assess whether the arrest is justified. In the wake of human rights legislation, if we look more broadly at reviews such as Sir Ronnie Flanagan's review into policing, we continually find evidence of risk aversion on the part of the police, rather than reckless risk taking. I think that we need to shine a

light onto the facts and see whose argument is best supported by them. My view is that our use of arrest against teachers is very limited.

Q68 Mr. Timpson: Is there any guidance from the Department for Children, Schools and Families about when to arrest? They didn't give us a response when we put that as part of the terms of reference in their memo to us.

Nick Gargan: I haven't seen any guidance from them; we tend to rely on the National Police Improvement Agency. There is some very effective guidance dating back to 2005 on investigating child abuse and safeguarding children that has an annex specifically dealing with these issues. We are also guided by "Working Together to Safeguard Children" and the initial police learning and development programme and the Professionalising Investigation programme, which are our own in-house training materials, one of which I have quoted to you already. We turn to those for advice-I am unaware of guidance from the DCSF.

Q69 Chairman: I don't think the *Hansard* reporter could see you lift that document. Do you think they can have a copy?

Nick Gargan: They can have my copy if they want.

Q70 Mr. Timpson: Just on a slightly different issue about CRB checks. I know you were not here earlier to hear the evidence given, but there is quite clear concern among many in the teaching profession about the enhanced information on CRB checks; the police feel that such soft information is relevant to that person and their future employment. Both the terminology used by the police in that and the necessity for it in every circumstance is not always right. Do you accept that? If you do, is there anything the police should be doing to try and improve the phrasing they use on CRB checks as well as their role?

Nick Gargan: The first point I will make is general. All we do is supply the information. We don't make decisions, we simply provide information on which others will base decisions. At the risk of diving back into the safety of numbers, a force like Thames Valley police-with a population of just over 2 million-sees enhanced CRB checks coming in at the rate of 1,000 a day.

Q71 Chairman: How many?

Nick Gargan: A thousand per working day, or 200,000 a year, and of those, about one a day will fall into this category. This is in relation to all categories, not simply teachers. About one a day will be considered for disclosure either of soft intelligence, or of

conviction information, where we decide to put some additional context to that information. For example, somebody might have been convicted of assault causing actual bodily harm, but to do justice and understand the context of that offence, we want to add some information, such as that the victim was a seven-year-old child. Together, those two categories amount to one per day-the additional information disclosure.

The person in our force who makes the decision on whether or not to disclose that information is me. It is always a chief officer in Thames Valley police. I make half a dozen of those decisions a week. If you compare that to the authority level required to conduct an intimate search of somebody, carry out surveillance or acquire communications data and so on, those authorisation levels are taken at much more junior levels in the organisation. We do that because we take this incredibly seriously. With the majority of cases that come my way, I sanction the disclosure-the additional information. In relation to teachers, so far this calendar year we have made five disclosures in Thames Valley police. Three were related to violence, one to a matter of public indecency and one to a matter of grooming of a young woman in the workplace.

Q72 Chairman: What was that?

Nick Gargan: Grooming of a young woman in the workplace. All five of those were considered very carefully by a chief officer, as are all of our additional information disclosures. There is an avenue of appeal back through the CRB to ask us to reconsider in the light of additional information provided.

I cannot speak for every police force in the country, but I know that police services are acutely aware of the risk they take-the risk of being sued or of being held to account for a perverse decision. We balance that with the risk of hanging on to information that might be relevant or true and that might prevent harm to children. I apologise for the long answer but it is a complicated question. We discharge that serious responsibility with an appropriate level of care.

Chairman: David, shall we come back to you?

Q73 Mr. Chaytor: Just a couple of things. Clare, you touched on the question of more training needed for governors in this complex area. What would be the three most important areas for further training? What do they need to know most?

Clare Collins: Basically, just understanding the law and what they should know and then some sort of role play where they work through a process. When this happens-and it has happened to me-you feel like a rabbit in the headlights. If you had gone through it in that safe, secure environment, you would respond more appropriately.

Q74 Mr. Chaytor: Finally, just one specific point. When staff go to disciplinary hearings- if it is for a very serious allegation-do they get legal representation, or should they?

Clare Collins: Are you looking-

Mr. Chaytor: I am just throwing it out to anyone who may know.

Clare Collins: It might be better if Fiona dealt with this.

Chairman: Fiona?

Fiona Hammans: It would probably depend on the local authority agreed protocol. In our authority you can have legal representation if the Governors are happy to accept that.

Q75 Mr. Chaytor: So, will it vary authority by authority, or school by school?

Fiona Hammans: Depending on whether the status of the school is community or foundation. The association's view is that if it is so serious that it could have such a level of impact on your professional and wider life, then you would be well advised to have counsel.

Q76 Chairman: Who pays the lawyer?

Fiona Hammans: It could be the individual if they chose to, or it could be their professional association or union.

Q77 Derek Twigg: Just one general thing. When I was at school, if I ever got in trouble-of course, it was never my fault-I would be more worried about my parents finding out, because I would be in trouble with them. All head teachers these days tell me that the number of teachers who come in on the bounce, because their little Johnny "Couldn't possibly have done anything wrong and would never tell an untruth," has massively increased in recent years. That is your view and that is what head teachers tell me, so what is the role of the parents in this procedure? We have not talked about parents at all today. What happens to the parents? Are they interviewed, do they come in, do you talk to them? Often the parent can tell-not all the time, obviously-whether their child is telling the truth or not. What is the role and the responsibilities of the parents in these procedures?

Kathryn James: I go back to my earlier point about the ethos within the school. The way that the school operates within the community is crucial, because that will bring about a frame of mind. Parents will come into school very angry, something has happened to their child which has made them very angry. Quite often in our members' situation, they

need to reassure that parent that they will take their complaint very seriously, sit them down and give them a cup of tea and say, "Okay, let's not get too agitated about this, let's sort out what has actually happened and I will deal with it." If parents have confidence that things will be dealt with, that can defuse a very difficult situation.

Q78 Derek Twigg: So it is about preventing things going further?

Kathryn James: I think it is, in a lot of cases. Parents, when they talk through the issues with the school leadership team that is there, will quite often say, "Okay, he or she does this at home, so okay, but I would like you to look into it." As long as they are confident that the school treats them with courtesy and also recognising that there is an issue that must be reviewed, parents are reassured and will go away and be content to see the school bring the investigation about.

Fiona Hammans: That is certainly true, but when we look at distraction or malicious allegations, the first you know about it is when you have the schools liaison officer from Thames Valley police, for example, saying, "I need to talk to you, because these parents presented themselves with their child last night and this is the allegation, what are you doing about it?" The local paper already knows about it and that is where you get your rabbit-in-the-headlights, what do I do? Quick, phone the chair of governors. There are two different routes and that is a management issue, as well as the allegation.

Chairman: That is a very good point. Clare?

Clare Collins: I agree with what has been said about the ethos of the school and I think this perhaps refers to something that you were trying to get underneath earlier, Graham, when you talked about deprived areas. I am concerned to see that schools have a good complaints procedure, that parents know about it and that everybody takes it seriously. One thing that comes through all this is that these are allegations made for which there is no substance, but there are allegations made where there is substance. Parents must have confidence that, if they say something has happened, they are not going to get a knee-jerk defensive reaction from the head teacher-"That couldn't happen in my school." That is where the ethos comes in: the professionalism of the people at the top really matters.

Q79 Chairman: Yes-we are after good, well managed schools, are we not?

Is there any evidence that cyber bullying is common now? We did our inquiry into bullying, as you know, and a very nasty, pernicious form of bullying it is. There has been some suggestion in the media that MySpace and Facebook are used in order to spread a network-"This is what you do if you want to get back at your teacher." Is there evidence of that, or is it just nonsense?

Fiona Hammans: Definitely. I can say from my own school that there is evidence that there can be campaigns from certain groups of youngsters who have taken a dislike to their teacher, and you need to manage it within the school.

Q80 Chairman: Could it impinge on an allegation of abuse?

Fiona Hammans: It certainly could, but it is slightly more complex. It depends on how the teacher finds out that this was up on the internet and how the students were accessing it. We had a very difficult situation in a nearby school where the daughter of a member of staff found something on Bebo about her father, which was very distressing to the whole family.

Kathryn James: It is absolutely on the increase because of the very nature of IT communication anyway. We have just been part of a group working with the mobile phone industry that set up a website to help teachers deal with cyber-bullying either against children or against themselves. Literally things like lesson plans-helping teachers deal with this in the classroom and contain it. Fiona is absolutely right: there are issues that have to be dealt with in school because it can very rapidly get out of hand.

Chairman: Last section questions, very briefly.

Q81 Paul Holmes: Two quick questions. The first one for Nick, and it is going back to the CRB issue. When a request is made for an enhanced CRB disclosure, the Association of Teachers and Lecturers, for example, say that the trouble is that there is no uniformity across all the different police authorities. They all decide, effectively themselves, how are they are going to word the things that are disclosed, and some of the wording can be very damning. What is your experience of that?

Nick Gargan: I think there are increasing levels of uniformity. As with so many aspects of our lives these days, there is no shortage of guidance. We have got legislation, Home Office circulars, and additional supplementary guidance, but the latest initiative which pushes us still further in the direction of standardised products up and down the country is the quality assurance framework. Forces are rolling that out at the minute; indeed, I had my training on my round in the quality assurance framework only the other day. Forms of words and model ways of articulating my decision-making rationale and those of colleagues who are actually preparing the disclosures are part and parcel of that training. So I think we are on a convergent path, but it is the role of the chief officer from time to time to challenge the phrasing of a proposed disclosure.

I have dealt with one recently where it implied that a teacher had been suspended permanently, and actually what had happened was that the teacher had been suspended on a temporary basis. The wording of the disclosure was ambiguous, and it is my role to challenge that and make sure we are attaching an appropriate level of weight to the information we are disclosing in order to inform the decision making.

Q82 Paul Holmes: Both ATL and the NASUWT gave examples of wording they have actually seen that basically could have been read to imply, "Well, they were guilty, but we couldn't actually go ahead with it." I know I had a constituent a couple of years ago-a youth worker rather than a teacher-who, when they got their check from another police authority in another part of the UK, it actually said in black and white, "There was a serious allegation made against him, we didn't prosecute, we didn't take it to court, we didn't charge him, but he was guilty." It said that in black and white, and I fought quite a long battle with the chief constable of that authority to get the wording of that altered.

You have to flag up where there are dangerous serial paedophiles who might get away with it in different places. We all know the cases that have gone to court about it. You have to flag it up so people can see a pattern emerging. But if the wording actually basically says, "Well, we couldn't actually prosecute, there was no evidence but he's guilty," that has got to be wrong.

Nick Gargan: In my experience, those disclosures that strongly imply guilt don't do so on the back of no evidence. I have seen those where the victim died prematurely, and therefore the case did not proceed at court. It is as good as saying, "We believe the person to have been guilty, but for technical evidential reasons, it couldn't be heard in court." There are several examples where a case might have run out of time or the witness emigrated or whatever it might be. If we have a sense that there was compelling evidence, but an intervening factor that had nothing to do with the guilt or innocence of the accused has meant that the thing was never heard in court, then we will attach some weight to that.

Q83 Paul Holmes: So innocent until proven guilty doesn't apply?

Nick Gargan: No, we will make the point that they weren't proven guilty, but we will also make a comment about the weight of evidence. If that's the case-if we judge it to be the case-we have simply got to try and achieve that very tricky balancing act, which I appreciate will sometimes be controversial or difficult. That is why we put it in the hands of very senior people, who apply great thought and care to it. They would make the sort of disclosure I just described only in the most exceptional circumstances, as the figures indicate.

Q84 Paul Holmes: Clare, the National Governors Association says there is no justification for retaining details on a personnel file of an allegation which is shown to be false. But that is contrary to what the Department for Children, Schools and Families recommends, which is 10 years, or until retirement, whichever is longer. It is also contrary to the advice of the NSPCC, which says of course you must retain these allegations, so how can you square-

Clare Collins: I think what we actually say, where we make it absolutely plain, is, "If an allegation is found to be false it has been demonstrated that it could not have taken place and the member of staff is wholly exonerated." That is what I am talking about-the credibility of the incident in the first place. We would be in favour of a "not proven". I think what you are talking about is something which is "not proven". If we weren't in favour of that, we would be saying that anything to do with safeguarding was a load of nonsense; that the whole reaction to the Soham thing was over top, because that is essentially what happened there.

Q85 Paul Holmes: What about the instances relating to children's homes? There have been some famous instances in this country and elsewhere, where there were lots of flags or complaints over a 30-year period about serial abusers, but they were never recorded or passed on to other people. Had they been, if you had seen that actually they moved around the country and were exonerated five or six times, you would have seen a bit of a pattern emerging.

Clare Collins: That has absolutely got to be recorded. In my own professional life, many moons ago, it happened to me. I was put in a very threatening position because the person who visited this person before was a man who didn't feel threatened, but never thought to put himself in a woman's shoes and consider how a woman would feel threatened. The red star that should have gone on the front of that case didn't go on the front of it. If that doesn't happen in response to this, then we are going to have more tragedies.

Chairman: Thank you very much; it has been an excellent session. We have learned a lot and it has been a pleasure to have such a talented group of people. It has been very nice to have a deputy chief constable with us, and wonderful to have an elected mayor from Lewisham with us, along with the tremendously expert group of you that we know and love. Thank you very much.