

*Inquiry into Allegations against  
School Staff*

HOUSE *of* COMMONS

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CHILDREN, SCHOOLS AND FAMILIES SELECT COMMITTEE

*The largest teachers' union in the UK*



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## **BACKGROUND**

In May/June 2009 the House of Commons Children, Schools and Families Select Committee conducted an inquiry into false allegations against school staff.

This booklet contains the written evidence the NASUWT presented to the Inquiry.

The evidence responds to the specific issues the Select Committee identified to be addressed.

## Introduction

1. This evidence draws on the Union's extensive experience of handling casework involving allegations against teacher and headteacher members and the Union's work on collecting data and working with the Government to address concerns relating to allegations against staff. The NASUWT has maintained a national database of allegations against members since 1991.
2. The chronology in Appendix A shows the work undertaken by the Union over the past 18 years and the significant progress made. However, there is still much more that needs to be done to protect staff.
3. The NASUWT wishes to emphasise at the outset that there is no place in the profession for those who abuse children. All allegations made by children and young people must be properly investigated. However, investigations should be conducted in a way that is fair and transparent and protects the rights of all those involved, particularly in light of the fact that the overwhelming majority of allegations against teachers turn out to be false or malicious.

### **The scale and nature of allegations of improper conduct made against school staff**

4. Appendix B contains the NASUWT's statistics on allegations of physical/sexual abuse made against NASUWT members since 1991. These figures show that the number of allegations has risen significantly. However, it must also be noted that this table only includes cases where the allegation was referred to the police and it was necessary for the Union to instruct solicitors to represent the member at a police interview and therefore the figures only represent the 'tip of the iceberg'. There are many more cases where teachers are taken through an internal disciplinary process without police involvement. These teachers may or may not be dismissed, but many, regardless of the outcome of these procedures, leave the profession as a result of the stress of the process.
5. NASUWT casework reveals continuing and increasing problems with pupils making allegations against teachers. There is an increasingly prevalent attitude of pupils challenging teachers with comments asserting their legal rights and threats that they will make an allegation against the teacher if s/he seeks to reprimand them for misbehaviour.

6. A relatively recent additional dimension to allegations against staff is the use of websites, such as YouTube and Bebo, by pupils to make false and malicious allegations against teachers anonymously. Publicly available derogatory remarks about teachers' practice affects their self-esteem and health and leaves them vulnerable to damage to their careers when current and prospective employers trawl the sites. In 2008, the NASUWT presented 100 examples to the Minister of State for Schools and Learners, Jim Knight MP, collected over a five-day period.
7. As a result of the growing body of evidence of technology abuse, the Union launched its Cyberbullying Campaign in 2007, calling for:
  - examination of legislation and/or regulatory provisions that could be introduced to make more accessible avenues of redress for victims against the website hosts;
  - a review of the child protection investigation procedures that require all allegations against teachers, including those that are anonymous, to be investigated and for guidance to be issued to schools on handling allegations that specifically appear on websites;
  - legislative change for anonymity for teachers accused of abuse to be given serious consideration in light of the frequency of false allegations on these websites;
  - measures to encourage schools to treat these incidents very seriously, including making specific reference in school behaviour policies to the use of the most serious sanctions for misuse of technology, either in school or off site, including a clear statement of zero tolerance.
8. Despite extensive guidelines from the Department for Children, Schools and Families (DCSF) to schools, it is the Union's experience that employers and managers are often reluctant to become involved when websites are misused by pupils. Given the potential damage that can be caused to teachers' health and careers, the NASUWT believes the DCSF Allegations Guidance should be expanded to cover allegations made through forums such as the Internet, e-mails and mobile phones. This needs to address what an employer should do when an allegation is made online anonymously.
9. Also of concern is a developing trend where when allegations of common assault are made against teachers by pupils, this then results

in external investigations being instigated into the welfare of the teachers' own children. The NASUWT believes that the instigation of a Section 47 investigation into teachers' domestic and family circumstances arising from an allegation made against them by pupils is inappropriate, unacceptable and a disproportionate response. One-off allegations of physical assault are being treated with the same severity as serious allegations of sexual abuse. Two examples are given in Appendix C (see Case Studies (i) and (ii)).

### **Whether staff subject to allegations should remain anonymous while the case is investigated**

10. The NASUWT initiated the campaign for anonymity in 2003 because of the injustice of teachers being publicly named when accusations are made against them, whilst the pupils who make the allegations remain anonymous. The Union has been seeking changes to the law to give anonymity up to the point of a court decision. Victims often endure intrusive and lengthy investigations that trigger trial by media. Their family life, health and professional confidence deteriorate. In extreme cases, teachers have committed suicide. The NASUWT launched a postcard campaign in 2004 to gather support for this legislative change. Over 60,000 responses were received and delivered to Downing Street. Claire Curtis-Thomas MP (Labour) presented 30,000 of the responses to the House of Commons. The Conservative Party also supported the Union's campaign.
11. The Government responded positively and, whilst not being prepared to grant anonymity, it did revise the guidance issued by the Association of Chief Police Officers (ACPO), advising police forces not to release the identity of individuals to the media prior to formal charges being brought. The ACPO position is referred to in the DCSF Allegations Guidance, but the NASUWT believes that the guidance needs to make it clearer to schools and local authorities that they have responsibilities to try to ensure that confidentiality is maintained at all stages of the process. The Government also brought in a fast-track investigation procedure of allegations as it was clear that the longer an investigation took, the more likely there was to be media coverage. This guidance was recently reviewed by the DCSF to evaluate its effectiveness.

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

(i) The procedures to be followed by disciplinary panels

12. The current Allegations Guidance does not include advice for disciplinary panels on the procedure they should be following when hearing allegations of a child protection nature. In the Union's extensive casework experience, many employers approach investigations and disciplinary hearings from the point of view that the teacher is guilty of the alleged misconduct unless s/he can prove otherwise (see Case Study (iii) in Appendix C for an example of this).
13. The NASUWT continues to have concerns about the role of governors on disciplinary panels. As volunteers, many governors have no training, experience or expertise in disciplinary procedures. They often also receive poor advice from Human Resources/Personnel providers.
14. The Allegations Guidance should include a section advising schools, and particularly disciplinary panels, of the approach to be taken when considering child protection allegations. This should draw to their attention the crucial principles of natural justice and 'innocent until proven guilty'. The information could be similar in nature to helpful guidance that is available to members of General Teaching Council Disciplinary Committees, the General Medical Council panel chairpersons and decision makers in circumstances where barristers have breached the Bar Code of Conduct (see Appendix D).
15. The NASUWT believes that headteachers, as a result of the Allegations Guidance, are generally now less inclined, and lack the confidence, to deal even with low-level allegations internally, instead erring on the side of caution and referring all cases to the local authority. Local authorities are much more inclined to treat the matter as a child protection issue involving 'significant harm' irrespective of the nature of the allegation. As a result, cases that may involve, for example, a minor restraint incident where a teacher has acted in accordance with the reasonable force guidance, are treated in exactly the same way as serious allegations of sexual abuse.
16. The Select Committee may wish to consider the independent investigation service introduced in Wales under the Staffing of Maintained Schools (Wales) Regulations 2006. This appears to have brought more objectivity and impartiality into the investigatory stage of child protection allegations.

17. The NASUWT is concerned about the specific difficulties faced by supply teachers. Generally, when an allegation is made against a supply teacher, the teacher is just sent away by the school and asked not to return. This is not a 'suspension' and they are not paid. The school has no responsibility towards them as they are not on the staff of the school. They are then often left in limbo, unable to work and without pay, sometimes permanently removed from the agency's books. Often neither the supply agency nor the school actively seek to investigate the allegation. The teacher is therefore not able to clear his/her name. Case Study (iv) in Appendix C is an example of such a situation. The Allegations Guidance should make it clear what responsibilities the agency, school and local authority have when an allegation is made against a supply teacher and must stress that the necessary investigation needs to be completed within a reasonable timescale.
18. The NASUWT also has concerns about the position of student teachers on teaching practice in schools when allegations are made against them. In the Union's experience, confusion can arise between the various organisations involved, namely the school, the higher education institution and the local authority, about who has the responsibility for investigating any allegation. Case Study (v) in Appendix C illustrates these problems.
19. The only reference to supply teachers in the current Allegations Guidance is very brief and hidden away in footnote 10 on page 58. No reference at all is made to the position of student teachers.

**(ii) When suspension of the staff member concerned is appropriate**

20. The Allegations Guidance states that suspension should not be automatic and that alternatives should be considered. However, many employers do not take this into account and suspend automatically, regardless of the nature of the allegation and without even considering any appropriate alternative option.
21. The Union is aware of a very small number of local authorities with policies that do specifically follow the guidance in relation to not suspending automatically and considering alternatives. Examples of the relevant extracts from two such procedures are included in Appendix E. It would be helpful if 'best practice' examples could be included within the Allegations Guidance. The Union also believes that the guidance should require the employer to be able to justify any

suspension, perhaps by way of conducting a formal risk assessment, before the decision is taken to determine whether there are any other alternative options available.

22. The Allegations Guidance needs to state that any suspension should be subject to regular review. Suspension is seen as a neutral act in law, but in a school environment, the sudden absence of a teacher fuels gossip and the prevailing 'no smoke without fire' attitude means the teacher is invariably tainted by the suspension. For this reason, many teachers find it extremely difficult, if not impossible, to return to work after a lengthy period of suspension, even where they have been completely exonerated following criminal and employer investigations. Given the devastating effect a suspension can have on the individual teacher, the guidance should stress more strongly that any suspension should only be the last resort and for the minimum duration.
23. The Union's casework experience suggests that employers are failing to keep in touch with members whilst they are suspended. Members are routinely informed that they must not contact any colleagues or pupils in the school, and this, combined with little or no contact with the employer, leaves them completely isolated. The guidance needs to stress that employers must keep in regular contact with the suspended individual, not just in terms of the suspension and progress of the investigation, but also to keep them informed about general developments in the school. Employers should also provide suspended teachers with access to occupational health and counselling services.
24. Some employers impose draconian conditions on suspensions, such as barring the teacher from attending any local authority premises (including public swimming pools and libraries). The guidance should advise against this unreasonable and unnecessary practice.

### **(iii) When arrest of the staff member concerned is appropriate**

25. The NASUWT has long been concerned about the insistence of police officers on arresting teachers when they attend a police station voluntarily and are willing to co-operate with an investigation into an allegation made against them. The Union does not believe that this approach meets the necessity test for arrest in Section 24(4) of PACE. The Union lodged judicial review proceedings against the police in two cases (see Case Studies (vi) and (vii) in Appendix C). The outcome of which supported the Union's view. As a result of this, fewer teachers

should now suffer the humiliation of being arrested and having their DNA, fingerprints and photographs taken and retained when attending police stations following allegations by pupils. It should also mean that they are not subject to adverse information on CRB Enhanced Disclosures.

26. The NASUWT asserts that police should be better trained to apply the arrest provisions set down in Section 24 of PACE.
27. In addition, police officers often appear to be unaware of Section 93 of the Education and Inspections Act 2006, which specifically enables teachers to use reasonable force in specified circumstances, or the common law right of any citizen in an emergency to use reasonable force in self-defence, to prevent another person from being injured or his property from being damaged.

**(iv) The retention of records of allegations found to be false**

28. Paragraph 5.10 of the Allegations Guidance advises schools to retain a clear and comprehensive summary of any allegations made, how they were followed up and resolved and a note of any actions taken and decisions reached, with a copy kept on the individual's personnel file. The NASUWT continues to have concerns about the inconsistent way information is being recorded and disclosed.
29. The NASUWT has long-standing concerns about the nature of non-conviction and internal disciplinary information ('soft information') being disclosed by local police forces and reproduced on teachers' CRB Enhanced Disclosures.
30. Information is not being recorded fairly and consistently by the police or employers. Resolving this issue is of increasing importance in light of the new Vetting and Barring Scheme (VBS) under the Independent Safeguarding Authority (ISA), as information recorded by an employer about an allegation may be referred to the VBS and be considered under the discretionary barring procedures.
31. The Union's casework experience demonstrates that it is rare for an allegation to be formally recorded as being 'false'. In many cases, even if the police find the allegation to have been fabricated, the formal outcome is recorded as being 'insufficient evidence to prosecute' or 'no charges brought but the matter was referred to the employer to deal with internally'. This type of recording can be extremely misleading as it implies that the police believed the alleged

incident occurred but did not have enough evidence to successfully prosecute. The Union believes that where an allegation is proven to be false, the police should formally record the outcome as 'allegation found to be fabricated' or 'no case to answer', to avoid the matter being recordable on a CRB Enhanced Disclosure.

32. The Allegations Guidance and the sections on recruitment and vetting checks (chapters 3 and 4) in *Safeguarding Children and Safer Recruitment in Education* need to include guidance as to what weight employers should attach to 'soft information' on CRB Enhanced Disclosures, given that this often relates to allegations that have been unproven or found to be false. Many employers simply refuse to employ a teacher who has been subject to an allegation regardless of the outcome, erring on the side of caution rather than considering whether there was any substance to the allegation.
33. Paragraph 5.34 of the Allegations Guidance states that where an allegation is shown to be deliberately invented or malicious, the headteacher should consider whether any disciplinary action is appropriate against the pupil. The NASUWT believes that this should be strengthened.
34. Further, the NASUWT is concerned that the guidance states the police should only be involved when the accuser is not a pupil. The Union firmly believes that where a pupil, particularly in a secondary school, has made a demonstrably false allegation, the matter should be referred to the police by the employer as a matter of course. The Union is aware of only one case where the police have cautioned a pupil for fabricating an allegation, but this was as a result of pressure from the member, not the school (see Case Study (viii) in Appendix C).

## Summary

NASUWT data collected since 1991 demonstrates that the number of allegations has increased and that the majority of allegations made against teachers are false or malicious. Case studies are provided alongside this evidence to illustrate a number of the points of concern raised in this evidence.

There is no place for those who abuse children and young people in children's services. All allegations made by children and young people must therefore be taken seriously and properly investigated. Those accused, however, are entitled to be treated fairly. Investigations should not be conducted on the basis that a person subject to an allegation is guilty until they can prove themselves innocent.

Since the NASUWT began campaigning in 1991 on the issue of allegations against staff, considerable progress has been made on improving the relevant procedures but more needs to be done.

The abuse of technology as a vehicle for making allegations against staff is a relatively new and increasing problem and, despite extensive guidance from the (DCSF), is still not taken seriously by employers and managers.

A legal provision should be introduced to provide anonymity for staff up to the point of a court decision.

The current Allegations Guidance should be strengthened by incorporating specific provisions to:

- address the position of supply teachers and student teachers on teaching practice against whom allegations are made;
- provide more detailed advice for governors serving on disciplinary panels;
- discourage the routine referral of allegations by schools to external agencies, irrespective of their nature and severity;
- deter automatic suspension of staff without consideration of alternative strategies and secure a regular review of any suspension made;
- make clear the responsibilities of schools and local authorities to ensure confidentiality of investigations;

- advise on the weight that should be given by employers to 'soft information' on Criminal Records Bureau (CRB) disclosures.

Training should be introduced for police officers:

- in the application of the arrest provisions set down in Section 24 of the Police and Criminal Evidence Act 1984 (PACE) to prevent teachers being arrested when they voluntarily and willingly co-operate with an investigation into an allegation made against them;
- with regard to the provisions of the Education and Inspections Act 2006, which enable staff to use reasonable force in specified circumstances and on the right of staff to use reasonable force in self-defence or to prevent another person or property from being damaged.

The inconsistencies in the recording and disclosures of non-conviction and internal disciplinary information, so-called 'soft information', is a serious problem that must urgently be addressed to prevent teachers and other staff who have been falsely accused having their careers permanently blighted.

## Appendices

Appendix A: Summary of the NASUWT Allegations Campaign

Appendix B: Table of Results After Investigations of Allegations of Physical/Sexual Abuse Against NASUWT Members

Appendix C: Casework Studies

Appendix D: Examples of Guidance Documents for Disciplinary/Regulatory Panels

Appendix E: Extracts from Local Authority Disciplinary Policies Regarding Suspension

## APPENDIX A

### Summary of the NASUWT Allegations Campaign

1991	The NASUWT began to record statistics.
1993	<p>The NASUWT continued to campaign for fair procedures for the investigation of allegations of abuse against teachers.</p> <p>The Union made representations to the Home Office and Department for Education and Employment ((DfEE) now Department for Children, Schools and Families (DCSF)) over injustices arising from the operation of the List 99 procedure and the process for the criminal record vetting of teachers for employment purposes.</p>
1994	As a result of pressure from the NASUWT, the six teacher unions and Council of Local Education Authorities (CLEA) produced guidelines on the practice and procedure for dealing with situations where teachers faced allegations of physical and/or sexual abuse from pupils. The Association of Chief Police Officers (ACPO) failed fully to endorse the document.
1995	<p>The CLEA/Six Teacher Union <i>Guidelines on Practice and Procedure for the Investigation of Allegations Against Teachers</i> were adopted by the Secretary of State and published as an annex to revised DfEE Circular 10/95 (<i>Protecting Children from Abuse: The Role of the Education Service</i>).</p> <p>Substantial progress was achieved towards the negotiation of focused national guidelines designed to provide a degree of protection to headteachers facing charges of improper behaviour toward pupils.</p> <p>The NASUWT made direct representations to the Home Office and ACPO over the detriment experienced by teachers as a consequence of the disclosure to employers of non-conviction information.</p>
1996	Negotiations opened in respect of revisions to the CLEA/Six Teacher Union <i>Guidelines on Practice and Procedure for the Investigation of Allegations Against Teachers</i> to cover the situation of headteachers.
1998	The NASUWT held discussions with Crispin Blunt MP on his Ten Minute Rule Bill to curb the powers of the press in respect of reporting allegation cases before a full investigation has taken place or the member had been charged.
1999	Crispin Blunt MP presented a Private Member's Bill, to provide for the anonymity of teachers, citing the NASUWT's campaign and the Union's statistics on allegations in support of the Bill. The Bill was unsuccessful.
2000	The Union continued to press for legislative change to provide anonymity during investigations and other formal proceedings. Baroness Emily Blatch (Conservative) presented an amendment to the Sexual Offences Bill, which said: "(3A) <i>Where an allegation has been made that a person has committed an offence under this section and the person is a teacher at an educational institution, it shall be unlawful to publish or broadcast that person's name or address or a still or moving picture of him before he is charged with the offence.</i> " Unfortunately, due to Government opposition and Parliamentary procedure, the amendment had to be withdrawn.

	<p>The Union submitted a detailed paper to the DfEE regarding concerns over procedures, or lack of them. In response, the DfEE arranged discussions with ACPO, social services, the Crown Prosecution Service (CPS) and the Department of Culture, Media and Sport.</p>
2001	<p>The annex to the Department for Education and Skills ((DfES) now DCSF) Circular 10/95 was amended to include best practice for dealing with educational staff who have been accused of abuse.</p> <p>In response to the NASUWT's concerns, the DfES established and funded a strategic network of 25 Investigation and Referral Support Co-ordinators (IRSCs) in regional clusters throughout England to work with local education authorities and Area Child Protection Committees (ACPCs), placing them close to their client and partner groups within the local structure.</p> <p>The Union introduced a specialist face-to-face counselling service for members subject to allegations of child abuse, which remains in place to date.</p>
2002	<p>The revised joint guidance produced by the six teacher unions and the employers was published.</p> <p>Joint guidance was also published on abuse of trust regulations.</p>
2003	<p>The NASUWT postcard and leafleting campaign for anonymity was launched.</p> <p>The Union provided written evidence to the Parliamentary All Party Group for Abuse Investigations.</p>
2004	<p>60,000 postcards were delivered to Downing Street. Claire Curtis-Thomas MP presented 30,000 of the responses to the House of Commons during a debate.</p> <p>Charles Clarke, Secretary of State, undertook to work with the NASUWT to improve the process of dealing with allegations against teachers.</p> <p>The Conservative Party also reiterated the Party's commitment to guarantee anonymity up to the point of charge.</p> <p>The ACPO issued revised guidance making it clear that anyone under investigation by the police should not be named or any details be provided to the press that might lead to their identification prior to them being formally charged.</p> <p>The Union undertook a Joint Critical Case Review with the DfES of allegation cases to identify the generic issues in cases that added to the stress and trauma of those accused and that increased the risk of exposure in the media.</p> <p>As a result, a consultation paper was issued by the DfES. The proposals included guidance to the police to ensure that anonymity up to the point of charge is maintained, a fast-track procedure to identify in days, rather than months or years, whether there is any substance to an allegation, a fortnightly review of the progress of cases, and rigorous national and local monitoring and evaluation of the new arrangements. The Government gave a commitment to keep the anonymity issue under review.</p>

	<p>The Government's Five-Year Strategy, launched in 2004, made a specific commitment to address the issue of false, malicious and exaggerated allegations against teachers.</p> <p>The NASUWT provided oral and written evidence to the Bichard Inquiry and highlighted the severe problems of inconsistency of police record keeping, inappropriateness of information held and the problems of disclosure.</p>
2005	<p>The NASUWT secured a commitment from the Government to introduce a monitoring procedure to enable regular review and evaluation of the effectiveness of the new fast-track guidance with a view to the introduction of legislative changes if the problems still persist.</p> <p>The NASUWT also continued to highlight and campaign on the impact of soft information being retained to the potential detriment of teachers and raised these concerns in a consultation response to the proposed Post-Bichard Vetting Scheme (DfES), Regulations under Part 5 of the Police Act 1997 (CRB) and the proposed Code of Practice on the Management of Police Information (National Centre for Policing Excellence). In addition, the NASUWT also asserted that a police officer who discloses the identity of a person, prior to that person being charged for an offence, should be subject to disciplinary action for breaching the ACPO guidance on anonymity.</p>
2006	<p>The Allegations Management Advisers (AMA) network was established by the Government to work with Local Safeguarding Children Boards and their members.</p> <p>The Minister of State for Schools and Learners, Jim Knight MP, invited the NASUWT to present the background to the anonymity issue to a cross party group of MPs, representatives from the House of Lords and the NSPCC.</p>
2007-09	<p>As a result of the NASUWT campaign new measures to tackle pupil indiscipline published by the Government included specific reference to disciplinary sanctions against those pupils who made false and malicious allegations against staff.</p> <p>The Union provided a detailed response to the DCSF's consultation on reviewing the guidance for schools when an allegation is made against education staff. The review was ongoing into 2008, with the Union being a member of the review steering group. The review was published in May 2009.</p>

## APPENDIX B

**Table of Results After Investigation of Allegations of Physical/  
Sexual Abuse Against NASUWT Members**

Year	Allegations	NFA*	To court	Court NFA	Cautioned or convicted	Total concluded	Total still outstanding
1991	44	33	11	5	6	44	0
1992	91	78	10	4	6	88	3
1993	153	130	22	12	10	152	1
1994	134	108	25	14	11	133	1
1995	103	93	10	3	7	103	0
1996	108	81	27	13	12	106	2
1997	118	96	21	14	7	117	1
1998	163	130	30	17	13	160	3
1999	190	169	21	17	4	190	0
2000	173	154	19	10	9	173	0
2001	183	164	18	15	2	181	2
2002	161	143	14	6	6	155	6
2003	191	171	20	12	6	189	2
2004	193	167	23	9	10	186	7
2005	170	154	16	8	8	170	0
2006	185	171	14	5	8	184	1
2007	192	173	11	3	7	183	9
2008	148	116	2	2	2	120	28
2009**	41	16	0	0	2	18	23
	2,741	2,347	314	169	136	2,652	89

\* NFA – No further action

\*\* to date

Please note: these figures will change as the results of investigations are received. This could occur some years after the initial allegation was made.

In addition, this table only includes cases where the Union was required to instruct solicitors for a police interview.

As at 7 May 2009

### Case Studies

#### Case Study (i)

An allegation was made against an NASUWT member that he physically assaulted a year 9 male pupil on 19 March 2007. The member was interviewed by the police on 4 April 2007. On 19 April 2007, the Union's solicitors confirmed that the police would be taking no further action against the member. The member was not charged or cautioned with any offence. The Union subsequently discovered that two employees of Bradford social services had visited the member at his home on the day he was informed of the allegation. The member says they treated him like a criminal and were very intimidating. They informed him they were investigating his family situation under Section 47 of the Children Act 1989. The same social workers subsequently visited the member again the following day and allegedly pressurised him and his partner to sign a formal document confirming their agreement:

- not to physically chastise their son;
- to report any injury to their son to the social services duty worker;
- to co-operate with social services and other agencies involved; and
- to social services undertaking an assessment.

The member pursued a formal complaint against social services.

#### Case Study (ii)

An NASUWT member teaching in a primary school in London was placed on gardening leave in June 2008 following allegations of child abuse from a parent. The member's headteacher and senior management team were fully supportive of him, as the allegations had come from parents who had made allegations against male primary school teachers before and seemed intent on preventing any males from teaching their children. The member is also a foster parent and a carer for his disabled wife. The allegations were referred to social services who instructed him that he was not to sleep overnight at his family home, which caused him and his family emotional trauma as well as practical difficulties. In addition, he was summonsed to an interview with social services. The case was reported in the press, which caused the member further distress. After approximately three weeks, the headteacher confirmed to parents that the

police and social services had found no evidence to substantiate the complaints and that the case had been closed. Social services' restrictions on the member were lifted and he returned to work. However, the member remained traumatised by the events and seriously considered leaving teaching.

### **Case Study (iii)**

A female pupil made allegations against an NASUWT member teaching in a secondary school in North Yorkshire on 11 January 2008. The member was suspended on 15 January 2008 without being told what the allegations against him were. The police interviewed the pupil but not the member and, on 21 January 2008, confirmed to the school that they would be taking no action. The school therefore instigated its own disciplinary investigation.

The member attended his first investigatory interview on 24 January 2008 but at this point, he was still not informed of the nature of the allegations. On 29 January, the employer wrote to the member informing him of the detail of the allegations. The pupil was not interviewed until 7 and 14 March 2008, some two months after the allegations were made. Nine other pupils and another teacher were interviewed over April, May and June. It was clear from the pupils' responses that there had been considerable discussion amongst year 11 pupils about the allegations. In addition, a number of the pupils made reference to the headteacher questioning them about the member prior to their interview, although no notes of these conversations were ever disclosed or referred to during the disciplinary investigation and hearing.

On 29 June 2008, the pupil who made the original allegation came forward with a further allegation about an incident she alleged occurred in Summer 2007. The member was interviewed on three more occasions, but these meetings were described as 'pre-disciplinary interviews', which did not exist under the school's disciplinary procedure and suggested to the member and his Union Representative that an assumption of guilt had already been made by the investigators.

It was also clear that the employer did not seek to investigate all avenues in order to seek the truth about the allegations, as 22 additional potential witnesses (mostly suggested by the member, but some named by the pupils interviewed) were not questioned. The investigation amounted to a trawling exercise to find damning evidence and elicit more allegations. It

failed to explore potential evidence that could have proved the teacher's version of events. These concerns were raised by the NASUWT at the beginning of the disciplinary hearing before a panel of governors. As a result, the panel acknowledged there were problems with the investigation and procedure. The panel decided that the overarching allegation of 'inappropriate behaviour of a sexual nature' was not evidenced, although the member was issued with a final written warning in relation to four less serious allegations.

### **Case Study (iv)**

An NASUWT member was working as a supply teacher through an agency at a secondary school in Lancashire. On 8 November 2007, the member was suspended for allegedly having an inappropriate relationship with a female looked after pupil. The pupil fell under the jurisdiction of Blackpool Council. However, the teacher was investigated under the procedures of Lancashire County Council. At a Section 47 strategy meeting on 15 November 2007, concerns were raised about the relationship between the teacher and the pupil. Social services and the police visited the teacher at home and her ongoing suspension was confirmed. At a second strategy meeting on 3 December 2007, it was decided that further investigation was necessary. The member's agency informed the member she would not be considered for further employment whilst the investigation was ongoing. To date (11 May 2009), no formal conclusion to the investigation has been reached by Lancashire County Council or Blackpool social services. No formal investigatory interview with the member has ever taken place in contradiction of Lancashire County Council's Child Safeguarding Procedures. On 16 July 2008, a report was received from Blackpool social services, but this reached no conclusion and stated no outcomes. In a letter dated January 2009, the County Council appeared to be retrospectively pushing responsibility to investigate onto the teaching agency in their capacity as 'employer'. The agency finally held a 'Disciplinary Investigation Meeting' on 16 September 2008 (some ten months after the allegation was made). The investigation found that the teacher's conduct was 'inappropriate' and that the member's relationship with the pupil in question 'went beyond the professional boundaries of a teacher'. However, no disciplinary action was to be taken against the teacher, but before she could be considered for further placements, the member was required to undertake child protection training. This training was finally scheduled to take place in March 2009. The member attended the venue for training as scheduled but on arrival was told that no training was required and that

she would simply have to go through the induction notes given to new teachers. To date, the member has not received the induction notes. The member has had to re-register with the agency but has still not yet been given any teaching placements.

### **Case Study (v)**

An allegation was made at the end of the Spring 2007 term against a student member of the NASUWT who was undertaking teaching practice in a school in the Yorkshire and Humberside Region. The school did not investigate the allegation, but refused to allow the student to continue his placement there. The member was due to qualify in Summer 2007 and had a job offer to commence in September – he was therefore at risk of losing this job if he was not able to finish his teaching practice. The NASUWT Regional Official wrote to the school, the university and the two Child Protection teams involved requesting that the allegation be investigated in order to resolve the matter. (The police were informed but declined to investigate as they felt no criminal offence had been committed.) A consensus was eventually reached that the university should investigate. The university finally confirmed it had investigated and was satisfied that the member was suitable to work with children and stated that he should be supported in order to complete his teacher training. The only point outstanding then was whether the member could start at the school where he had obtained a job from September. The school was supportive and prepared to allow him to complete his final teaching practice there but the local authority had reservations. The member did, however, start work at the school as an unqualified teacher in order to complete his final teaching practice.

### **Case Study (vi)**

In March 2006, the NASUWT secured a settlement from the police following the unlawful detention of a member at a police station. The supply teacher member from the West Midlands was accused of assaulting a pupil and was taken to her local police station for questioning. She was arrested and questioned, following which a 'no further action' decision was taken. At this point, the member should have been released, but she was detained and her photographs, DNA and fingerprints taken. The NASUWT submitted a judicial review application against the police decision to detain her and was given leave to proceed by the Court. The police then conceded the claim in full, agreeing to destroy the records and they paid, to the member, a token amount of compensation.

### **Case Study (vii)**

An NASUWT member voluntarily attended Washington police station in May 2008 where, despite protests from his solicitor, he was arrested over allegations of common assault against a school pupil. He was later cleared of any wrongdoing. As part of the arrest process, the police took DNA samples, a photograph and fingerprints. By law, police can keep these records irrespective of the outcome of the arrest. The Police National Computer (PNC) had also been marked with 'CJ arrestee', which would lead to disclosure to any prospective employer carrying out the obligatory enhanced Criminal Records Bureau Check. The NASUWT challenged the legality of the member's arrest and sought destruction of his personal records. The High Court granted permission for a judicial review, but on 1 May 2009, a few days before the full hearing, the police conceded, agreeing to a Consent Order declaring the arrest unlawful. An order was made that the photographic, fingerprint and DNA records be deleted and the PNC was amended. This climbdown has implications throughout the public sector and will significantly change the way teachers who are accused of assault are dealt with by the police. The decision implies that police should be better trained to apply provisions of the Police and Criminal Evidence Act 1984 (PACE) when dealing with teachers and other public servants. Regrettably, the member has now left the teaching profession after 15 years' service because of the trauma caused by this ordeal.

### **Case Study (viii)**

An allegation was made against an NASUWT member in Flintshire on 15 February 2007 that he held a penknife to a female pupil's throat and threatened to kill her. The Union's solicitors were instructed to represent the member. On 6 March 2007, the Union's solicitors confirmed that the police would be taking no further action against the member. They subsequently provided a copy of an e-mail from the investigating police officer, which unusually confirmed that the investigation had revealed the allegation was completely made up. The member had not even been interviewed by the police. On the Union's solicitors' advice, the member then lodged a formal complaint against the pupil to the police. The Union was advised that the pupil had been cautioned for 'making false witness'. The police subsequently confirmed in writing that the pupil 'was arrested and formally reprimanded for her actions'. As far as the Union is aware, no disciplinary action has been taken against the pupil by the school.

## APPENDIX D

### Examples of Guidance Documents for Disciplinary/Regulatory Panels

#### **General Teaching Council**

##### *Guidance for Members of Disciplinary Committees*

See section 3.18 on voting and decision making, which provides guidance on the burden and standards of proof to be applied, and deciding whether the facts do amount to unacceptable professional conduct.

##### *Indicative Sanctions Guidance*

This provides Professional Conduct and Competence Committees with guidance on how to determine an appropriate sanction.

#### **General Medical Council**

##### *Making decisions on cases at the end of the investigation stage: Guidance for Case Examiners and the Investigation Committee*

This provides guidance for the investigation stage of 'fitness to practise' allegations, giving general advice, guidance on terminology and case examples.

##### *Managing Fitness to Practise Panel Hearings – Guidance for panel chairmen*

This provides guidance to panel chairmen on matters such as the standard of proof, mitigation and sanctions.

#### **Council of the Inns of Court**

##### *Sentencing Guidance: Breaches of the Code of Conduct of the Bar of England and Wales*

This document provides guidance to decision makers on sentencing barristers who breach the code of conduct and includes advice on proportionality and consistency, as well as aggravating and mitigating factors.

## APPENDIX E

### Extracts from Local Authority Disciplinary Policies Regarding Suspension

**Sunderland – Employment Policies, Procedures & Guidelines for Schools (page 11):**

#### 7. SUSPENSION

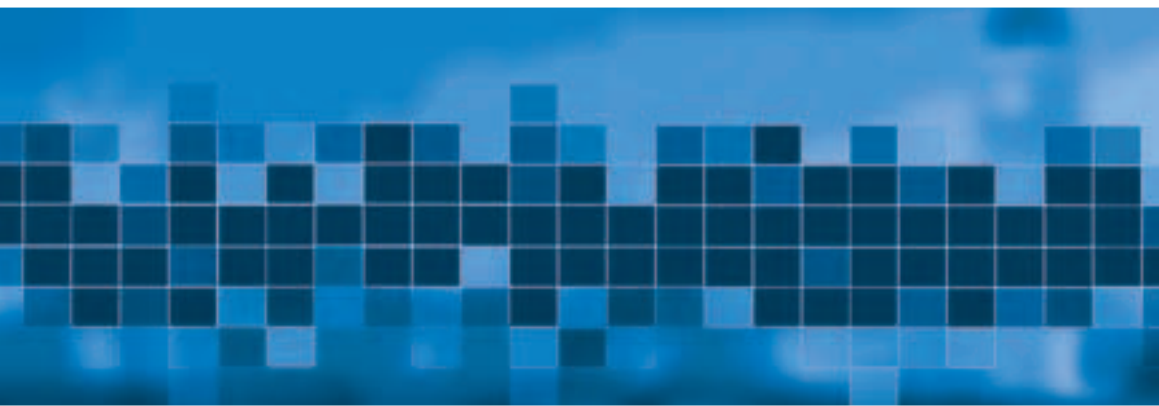
7.3 If it is necessary to remove an employee from his/her workplace to allow an investigation of the alleged misconduct, wherever possible the Headteacher should consider alternatives to suspension, e.g. different workplace or paid leave of absence.

**Newcastle – Disciplinary Procedure (page 7):**

#### 6.2.3 Conduct a formal investigation

- Before proceeding with the investigation, the head teacher must also decide whether the employee during the investigation:
  - remains at work undertaking their normal or alternative duties;
  - is placed on paid leave on full pay; or
  - is suspended from duty on full pay.





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