



## **Recording Allegations of Abuse NEU guidance for members in England**

The purpose of this document is to clarify the procedures which employers must follow when recording allegations of abuse against teachers.

### **Where are records of allegations kept by employers?**

Records of allegations are kept by employers in individual personnel records and, where the allegation has been referred to the police for investigation, by police forces. For further information about police records, refer to the NEU document Disclosure of Police Information to Employers, available on the union website at: [neu.org.uk](http://neu.org.uk)

### **How should allegations be recorded on my personnel file?**

Statutory guidance, to which the employers of teachers must have regard, requires the following to be recorded:

- a clear and comprehensive summary of the allegations
- details of how the allegation was followed up
- a note of any action taken and decisions reached.

### **Am I entitled to see the record of allegations on my personnel file?**

Yes. The statutory guidance expressly provides that a copy should be provided to the accused.

### **How long should the record remain on my personnel file?**

The record should be retained at least until you have reached normal retirement age, or for a period of ten years from the date of the allegation if that is longer.

### **Should a record of allegations be retained in my personnel file even if I am exonerated?**

Statutory guidance requires the following definitions to be used by your employer when determining the outcome of allegation investigations:

- substantiated – which means there is sufficient identifiable evidence to prove the allegation
- false – which means there is sufficient evidence to disprove the allegation
- malicious – which means that there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false
- unsubstantiated – which means that there is insufficient evidence to prove or disprove the allegation
- unfounded – which means there is no evidence or proper basis to support the allegation being made.

If an allegation is found to be malicious it should not be retained in your personnel file. However, all other outcomes may be retained on your file for the periods set out above.



### **Should the term ‘unsubstantiated’ ever be used by employers to describe the outcome of an allegation investigation?**

When the handling of allegations of abuse against school staff was considered in 2009 by the House of Commons Select Committee, it was felt that the phrase should be used with “particular care and only when no other term will suffice”.

In the union’s view, the term unsubstantiated should never be used as it will undoubtedly suggest an element of guilt on the part of the accused. Any attempt by your employer to determine the outcome of an allegation investigation using this term should be resisted.

### **Is my employer permitted to disclose an allegation against me in references?**

Not if the allegation was proven to be false, unsubstantiated or malicious. You should note, however, that false, unsubstantiated and even malicious allegations may be disclosed in the ‘Other relevant information’ section of an enhanced Disclosure and Barring Service (DBS) certificate if the allegation forms part of local police records and the chief constable reasonably believes that the allegation is relevant to the DBS application and ought to be disclosed.

For more information about how to challenge the disclosure of allegations on your DBS certificate, refer to the NEU guidance documents Disclosure of Police Information to Employers and DBS Checks: Working with Children and Vulnerable Adults, available on the union website at: [neu.org.uk](http://neu.org.uk)

### **What if I resign before my employer is able to reach a determination about the allegation(s) against me?**

Your employer is obliged by statutory guidance to continue with the process of investigating the allegation and reaching a decision about whether it can be substantiated on the evidence available, even if you resign before all the evidence can be gathered and/or a disciplinary hearing can be arranged.

You should note that an adverse finding by your employer may have a continuing impact on your employment prospects even if you subsequently seek employment outside of teaching (ie substantiated allegations may be referred to in references). Therefore, it may be in your interests to co-operate with any arrangements adopted by your employer to try to resolve the allegation(s) against you. Statutory guidance provides that wherever possible, you “should be given a full opportunity to answer the allegation and make representations about it”. Contact the union if this does not happen in your case.

### **What should I do next?**

If further advice is needed, contact your NEU workplace rep in the first instance. If there is no NEU rep in your workplace, or the peripatetic nature of your employment makes contact with a workplace rep difficult, contact the NEU Adviceline in England on 0345 811 8111 or NEU Cymru in Wales on 029 2046 5000.

Further contact details may be found at: [neu.org.uk/contact-us](http://neu.org.uk/contact-us)