

Ending the nightmare?



Coping with an allegation made by a pupil is every teacher's nightmare but it is every bit as daunting for head teachers. It is essential to be fair to the pupil and to their parents, to be fair to the teacher involved and to juggle the flow of information with the roles of the local authority children's services, the police and the governors. It is all too easy to appear to be prejudging the case by taking an allegation at face value but, in practice, many head teachers see no other way of investigating it.

The issues surrounding allegations of this type were thrown into sharp relief in April 2006 when a music teacher was posthumously cleared by the Court of Appeal after he died in prison 18 months into an eight-year sentence for rape.

From a teacher's point of view, the case was appalling. The alleged incident had taken place 11 years earlier and the teacher had worked for 20 years without any complaint being made against him. However, he was a peripatetic music teacher and so perhaps lacked institutional support, and the jury chose to believe the accuser in the absence of any other evidence. It was only when the young woman made another allegation against another man – securing a conviction – which was later quashed by the Court of Appeal that questions began to arise. At this appeal hearing, a psychiatric expert witness described the accuser's recollections as "implausible" and noted that she made no mention of the case involving the teacher.

When allegations are made against teachers by pupils, school managers are placed in a horrendous position too. Will the new national protocol make for a fairer system?

How is it possible for such a miscarriage to happen? One reason is that allegations of this kind are investigated under the Children Act which, rightly or wrongly, gives anonymity to the accuser but not to the accused. This encourages the 'leaking' of the information to local newspapers, which can clearly identify the teacher without specifically naming them but which are legally barred from writing anything that might identify the pupil. This media coverage, in turn, compels the school to make a statement and, on the principle of 'no smoke without fire', the accused is assumed by the community to be probably guilty.

The effects on the teacher and their family go without saying. Many teachers find it impossible to go on working even when allowed to do so, and stress takes its toll. The ultimate irony is that because mud sticks it is very difficult for a teacher who is proved innocent to continue to work in the school or locality. This is despite the fact that in around 90 per cent of cases, the criminal investigation finds no grounds for prosecution.

Panic measures

It is argued that the new procedures outlined below make this unlikely to happen but schools and local authorities are still sometimes pushed into panic measures. Any sensible risk assessment would show that head teachers ought to think in advance about how they would react and what they would do if an allegation were made. The figures are notoriously slippery but around 1,000 teachers each year find themselves the subject of sexual allegations ranging from inappropriate touching to rape. One interesting figure from one of the teaching unions is that 55 per cent of teachers know a colleague who has been accused in this way.

It is easy to say that teachers should never touch pupils or be alone with them but, of course, that is almost impossible in practice and, in terms of building positive relationships, it is also counterproductive. In the United Kingdom, teachers have always had a pastoral role alongside their responsibility for teaching and learning and most of the population would agree that that is a good thing. However, it creates a context within which allegations are always possible.

It also goes without saying that adolescence is a turbulent time for young people, who are exploring new kinds of relationships including both attraction and rejection. The teenage years have become increasingly sexualised – not only through the media but also, bizarrely, through local support and advice services. Surveys indicate, probably with some exaggeration, that a large percentage of the secondary school population is sexually experienced. This creates a context for which many young teachers are not properly

prepared. In the past, teachers and schools have cheerfully recognised the young, good-looking teacher – male or female – on whom all of the pupils have some kind of crush without realising where it might lead.

So what should head teachers do when an allegation surfaces? The first thing to note is that there is now a national and standardised protocol, introduced in November 2005 in co-operation with the police, the Home Office and the Crown Prosecution Service. The aim is to fast-track allegations and to resolve them quickly through designating police officers and local authority staff to take responsibility for them. The guidance includes an indicative timeframe for cases to be resolved and makes clear that members of staff who are accused will need

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support. It also calls for confidentiality for all – which it cannot guarantee – and it underlines that the automatic suspension of staff is not required. The 2004 Children Act has established what are known as Local Safeguarding Children's Boards and these may also have a role to play. It is, however, hard to know how these new arrangements will play out in practice and whether the commitment in the five-year plan to protect teachers from unfounded allegations will be carried through given the new involvement of a whole raft of other agencies.

In the new process an allegation may come, as it always has, from a variety of sources including the pupil, their family, the police, another member of staff or a member of the public. Immediately, three options have to be explored. The first is the possibility of a police investigation into a potential criminal offence. The second is an assessment of whether the child is in need of protection or children's services, and the third is a consideration by the school of disciplinary action towards the individual.

Action

The action to take is determined by what is now termed an Initial Consideration involving the new Local Authority Designated Officer and the head teacher. It is possible at this point, in inquiring further into the allegation, to determine that it is false and unfounded. This might happen, for example, when a pupil withdraws an allegation in the light of evidence from witnesses. This is now an important stage in any investigation and must be conducted so as to be scrupulously fair both to the accuser and the accused. It is worth noting that when the allegation is made to the police, exactly the same process is to be followed and the police should not spontaneously launch a criminal investigation.

It is also possible to determine at this stage that an allegation does not involve a criminal offence. Of course, if it may do so the police will now be involved

and it will become a criminal investigation. Otherwise, the continuing action involves the school. The indicative timescale suggests that the disciplinary hearing should be held within 15 working days if no further investigation is required and within 30 days if a disciplinary investigation is needed. A disciplinary investigation can be carried out by a senior member of staff or by someone independent of the school and that is a matter for negotiation. The Local Authority Designated Officer will continue to be involved and the procedure for the disciplinary hearing will follow normal local authority lines.

There are some genuine new safeguards for teachers here. The speed of the initial inquiry and the fact that it is already underway and confidential can reduce media interest. The likelihood of an immediate police investigation is significantly limited and the Local Authority Designated Officer can be expected to have some experience of such cases and some insights into how these events unfold. For example, if a group of pupils have made a series of allegations which have proved mischievous then this can be established at this point, and the presence of the Local Authority Designated Officer can avoid accusations that the school is covering up. Also, a sensible initial investigation can identify occasions where, in the

interests of everyone concerned, there is no need for further action. For example, where a teacher has restrained a pupil inappropriately but accidentally such a case can be settled with an apology and a handshake. Where there is a real cause for concern, the procedure should quickly identify that as well and move more quickly to involve other agencies.

All of this should be fairer to teachers and limit the impact of unfounded allegations – but interestingly, allegations involving pupils are not what most commonly end up in the tribunals of the GTC. Here you will find more examples of the use of school computers to visit ‘inappropriate’ websites and stories about ‘manufactured’ CVs as well as teachers who have been convicted in the courts of drunken driving, drug offences, violence and theft. So in career terms, there are plenty of other things for teachers to worry about.

Finally, it is worth noting that head teachers can themselves be the subject of allegations. If that happens, the chair of governors liaises with the Local Authority Designated Officer but the procedures are the same. One head teacher recently accused of assaulting a pupil was only cleared when CCTV evidence showed that the pupil had lied. It is a chilling thought that, without the CCTV, that could have been another career in ruins.
