

Merchiston Castle School – Part C

Appendices

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## **Merchiston Castle School – Improvements to Management of Staff**

### **New staff recruitment**

- Our reference requests now include questions on any instances of a member of staff being involved in any Child Protection investigation and we confirm this in our telephone verification of the reference.
- References are taken up before interview so that any 'issues' can be fully discussed during the interview if necessary.
- Self-declaration form must be completed as part of the application process and any 'issues' can be discussed at interview if necessary.
- There is a specific verbal request during interviews to confirm the details provided in the self-declaration form
- 2 detailed references received. However, this is not always possible for those staff whose previous employment is not a School.
- Additional questions added to reference requests try and understand if the employee has left previous role as part of a Settlement Agreement
- Telephone verification of the detailed reference to check the identity, explore the responses to disciplinary issues and ask question of suitability to work in a boys' boarding school. Telephone verification of any reference also takes place even when the detailed reference is not received.
- As part of the interview process for all teaching staff, the Deputy Head Pupil Support meets all candidates and explores their understanding of Child Protection.
- Final sign off of recruitment process by Headmaster or Bursar once the full process has been completed and all elements recorded as having been satisfied.
- Child Protection training as part of Induction process for all staff.

### **On-going monitoring and management of staff**

- The Disciplinary Policy and Grievance Policy were revised and improved in 2015 and separated from the staff contracts. At the same time the disciplinary process confirmed that suspension without prejudice would be the 'norm' where any allegations of breaches of the Child Wellbeing and Protection Policy were made.

- More formal processes adopted in line with relevant policy so that any child protection issues is recorded in the staff file and letters sent to staff.
- Any child protection issues are included in staff file on red paper (for easier identification)
- The School maintains a separate register of Child Protection issues
- We have a retained Employment Law company who advise on all HR matters and review all policy changes before they are communicated.
- Staff are now consulted during policy review, for example updating of the new Staff Disciplinary Policy (January 2017) and the introduction of an Allegations of Abuse against Staff Policy (April 2017).
- Middle management training has been provided covering the management of staff misconduct.
- Staff issues is a standing item on the agenda of the Child Protection and Compliance Committee
- Annual review of issues by Chairman of Child Protection and Compliance Committee

#### **Staff leaving Merchiston**

- A reference policy was formalised in 2016 which outlines the School's position on providing employment references which bear the School's name and represent an official statement of the School's assessment of a former or existing employee of Merchiston Castle School.
- The School maintains a separate register of Child Protection issues so that the Headmaster can ensure that any reference written will divulge any relevant information in this area
- The revised Disciplinary process and draft 'Allegations against Staff' policy both also highlight to staff what sort of information will be included in future references including
  - “Any record relating to a breach of the Child Wellbeing and Protection Policy and Guidance will be retained indefinitely.”
- Cessation of use of settlement agreements when staff leave the School where there have been any child protection issues identified as this can inhibit what can be said in a reference.

Andrew Clayton, Bursar, 01 June 2017



### Procedures for Employment of New Staff – Catering & Domestic

#### Background

- Prepare Job Description and Person Specification
- Agree shortlisting panel – normally supervisors or managers. Will need member of Pupil Support Team for roles in Boarding Houses

#### Advertising

- Consider best interview dates and prepare advertising schedule and closing date to fit
- Ensure Equal Opportunities and Criminal Records Policy Statements are included in recruitment paperwork along with the School's Mission Statement and charity number to obtain vat free advertising

#### Information for Applicants

- Ensure the *Information for Applicants* is up to date
- Job Description and Person Specification – this must include the fact that the post will require membership of the PVG Scheme.
- Application forms
- Job Description

#### Applications

- Completed when people are invited to interview (We will now send application forms out along with job descriptions)
- Check Self Declaration completed

#### Invitation to Interview

- Candidates invited to interview and informed that formal references will now be sought and interview process outlined.

#### At Interview

- Meeting to exhibit Passport to confirm ID and right to work in the UK and qualifications for checking (copies taken)
- Review of Application Form and Self Declaration to confirm correct. Confirm the reasons for any gaps in employment
- Interviewer (or nominated other) to confirm the Self Declaration is correct and there are no omissions and all questions have been understood.
- A member of the Pupil Support Team will be included on the panel for any applicant for any role in the boarding houses

#### Post Interview

- Discussion of merits of each candidate

- If consensus achieved interviewer to telephone and make a verbal offer providing verbal references have been taken up in advance of interview. **Offer remains conditional on the completion of normal safeguarding processes and procedures including reference checks.**
- If consensus not reached – second interviews arranged or decision taken to re-advertise

#### **Unsuccessful Candidates**

- Phonecall/letter of regret by phone call

#### **Successful Candidate:**

- **Begin Safeguarding Authorisation to record progress and prepare file**
- **Send Offer letter with:**
  - Job Description
  - Details of salary/contract type
  - Details of need to obtain a police check from home country (if applicable)
  - SSSC Codes of Practice
- **Acceptance Letter received**
  - PVG Application sent off
  - Forms and ID checked and entered onto PASS
  - Process Police Check (if required)
- **Disclosure returned**
  - If satisfactory- record, destroy copy
  - If unsatisfactory – possibly to ARH for consideration and applicant for explanation
- **References**
  - Offer may be withdrawn if either PVG Scheme Record or References are unsatisfactory and explanation inadequate or inappropriate. Written references must be received for all applicants from 2 most recent employers and reasonable attempts to verify these by telephone and seek additional information to take place. Telephone numbers of referees need to be checked against company headed paper or websites.

#### **On appointment**

- Payroll records updated
- Information passed to HR for entry onto PASS
- Create Staff file: Job Description, CV/Application Form, 2 verified references, qualifications (checked to match Application Form) letter of offer with particulars of employment; Acceptance Form , Health Questionnaire, Self Dec; PVG; ID (Passport scanned to PASS); AUA; Info Form; Safeguarding Authorisation
- Copy Info Form and Safeguarding Authorisation to Accounts when signed off
- Arrange for pre-induction meeting before start date

#### **In the Interim Period**

- Bursar or HR to sign off each personnel file to ensure the appropriate checks have been made

#### **Pre-induction (before start date)**

- Review the following
  - Term dates
  - Dress code
  - School Policies
  - Contact details for staff
  - Arrange for handover of Staff Handbook, Department Handbook and relevant curricular information
  - Acceptable Use Agreement for Computer and Internet Use
  - Pre-employment health questionnaire
  - Check SSSC Codes of Practice understood

**In due course**

- Health & safety and Food safety training commenced
- Contract issued, signed and returned once probation period completed
- Probation period initiated

Andrew Clayton, Bursar, 25 June 2016



### **Procedures for Employment of New Staff**

**Background**

- Prepare Job Description and Person Specification and circulate for input and approval
- Agree shortlisting panel

**Information for Applicants**

- Prepare *Information for Applicants* booklet.

**Advertising**

- Consider best interview dates and prepare advertising schedule and closing date to fit
- Place advert and related information on School Website as soon as possible – circulate to all staff to pass on to interested parties
- Obtain quotes for advertising and put forward proposals for agreement
- Ensure Equal Opportunities and Criminal Records Policy Statements are included in recruitment paperwork along with the School's Mission Statement and charity number to obtain vat free advertising

**When Applications Arrive**

- Acknowledge receipt of application and request missing information before passing to selection panel
- Check Self Declaration
- Highlight any discrepancies or concerns
- Key information on likely candidates extracted from applications and entered into summary grid by HoD

**Shortlisting**

- Shortlist created on basis of fulfilment of Person Specification:
  - Relevant teaching experience
  - Co-curricular Activities offered
  - Understanding of the need to participate fully in the life of a boarding school
- Verbal references obtained from referees – HoD to HoD – Head to Head (or nominated other)

**Invitation to Interview**

- Candidates invited to interview and informed that formal references will now be sought and interview process outlined
- Notification of lesson observation and that HoD will be in touch to talk the candidate through the requirements
- Travel details to be confirmed to HR for planning purposes
- Accommodation to be booked if required
- Final interview programme sent to candidate prior to interview if possible

**Prior to Interview**

- References for shortlisted candidates copied to Selection Panel along with hard copy application forms
- Verification calls to be made to Heads/Line Managers to confirm 'no skeletons'
- HoD to arrange pupil panel, staff for lunch and appropriate senior pupils to tour
- HoD to ensure candidate has all information for preparation of lesson as soon as possible after interview date agreed

**At Interview**

- Meeting with HR to exhibit Passport to confirm ID and right to work in the UK and qualifications for checking
- Review of electronic Application Form and Self Declaration to confirm correct
- Completion of Interview Expenses Claim Form
- Headmaster (or nominated other) to confirm the Self Declaration is correct and there are no omissions and all questions have been understood
- Staff to circulate feedback as soon as possible
- HR to collate pupil panel and tour guide feedback and circulate asap

**Post Interview**

- Discussion of merits of each candidate
- If consensus achieved Headmaster to telephone and make a verbal offer providing verbal references have been taken up in advance of interview. Offer remains conditional on the completion of normal safeguarding processes and procedures
- If consensus not reached – second interviews arranged or decision taken to re-advertise

**Unsuccessful Candidates**

- Phonecall/letter of regret by email

**Successful Candidate:**

- **Begin Safeguarding Authorisation to record progress and prepare file**
- **Send Offer letter with:**
  - Job Description;
  - Application to Join PVG Scheme or Application for Existing Members
  - Salary Scales
  - GTCS Code of Professionalism and Conduct/SSSC Codes of Practice;
  - Information Form
  - Pre Employment Health Questionnaire
  - Acceptance Form – annotated as necessary
  - PVG Forms, Policy and Guidelines as appropriate;
  - Photocopies of ID to be verified on next visit
  - Photocopies of Qualifications to be verified on next visit
  - Acceptable Use Agreement for Computer and Internet Use
  - Term Dates;
  - Dress Code;
  - How Merchiston Nurtures the Learning and Teaching of Boys;
  - *School Policies Booklet for Pupils, Parents and Guardians (latest Edition – 14th).*
  - Contact details for staff at Merchiston and outside agencies as required
  - Beginnings of Staff file and Safeguarding Authorisation passed through with offer letter for checking
  - Letter amended to take account of processes already underway or forms received.
- **Acceptance Form received**
  - PVG Application completed, checked, copied and sent off
  - Forms and ID checked and entered onto PASS
- **Disclosure returned**
  - If satisfactory – record and file
  - If unsatisfactory – to ARH for consideration and applicant for explanation

- **References**
  - Offer may be withdrawn if either PVG Scheme Record or References are unsatisfactory and explanation inadequate or inappropriate.

**On appointment**

- Enter details into PASS
- Create Staff file: Advert, Job Description, CV/Application Form, 2 verified references, qualifications (checked to match Application Form) letter of offer with particulars of employment; Acceptance Form, Health Questionnaire, Self Dec; PVG; ID (Passport scanned to PASS); AUA; Info Form; Safeguarding Authorisation
- Copy Info Form and Safeguarding Authorisation to Accounts when signed off
- Arrange for acquaintance visit(s)
- Copy offer letter/Information Form to Accounts when sent

**In the Interim Period**

- Announce appointment to Parents, Staff and Governors – prepare précis
- Arrange for handover of Staff Handbook, Department Handbook and relevant curricular information.
- Keep updated with relevant information

**On day of starting**

- Initial Briefing and Induction
- Begin Full Induction Programme

**In due course**

- Contract issued, signed and returned
- Review and Development Programme initiated
- Review of teaching in second term:
  - if satisfactory – accepted on to permanent staff- letter
  - If unsatisfactory – notification to member of staff and issue of formal notice or extension of probation

Andrew Clayton, Bursar, 26 September 2016





# Disciplinary Policy

## . Policy and procedure for staff

Original Policy Written in consultation with:	
Heads of Department	✓
Housemasters	✓
ATL Legal Rep	✓
Staff	✓ All staff
Author	AGC
Reviewed by	SLT, Heather Smith, Anderson Strathern
Version Number	4
Date Adopted	March 2015
Review Dates	November 2016 – completed January 2017
Next Review Date	February 2018

## **Disciplinary Procedure**

The disciplinary procedure, which all employees have a responsibility to read and understand, is designed to promote fairness and consistency in the treatment of all employees and to assist the school to function effectively. This procedure will apply to any disciplinary situation which includes misconduct and also poor performance (in conjunction with the capability procedure). It is not contractual but applies to all who should familiarise themselves with its provisions.

Expectations of staff are based on the Codes of Practice for Social Services Workers (issued by SSSC) as well as the GTCS Code of Professionalism and Conduct for teaching staff.

The disciplinary procedure is designed to ensure that these standards are adhered to and provides a fair method of dealing with any alleged failures to observe them. The procedure does not preclude minor disciplinary situations from being dealt with informally.

In cases other than alleged gross misconduct an employee whose conduct or performance does not meet the standards will normally first be counselled in an attempt to achieve the required improvement.

Nothing in this procedure shall inhibit the Headmaster/SLT Member/Head of Department/Line Manager from discussing concerns or advising employees as to their conduct or performance informally and without recourse to disciplinary procedures.

However, the School reserves the right to commence the procedure at any stage if the circumstances warrant such action.

No disciplinary action will be taken until the case has been investigated and the employee has had the opportunity to respond to the allegations in accordance with the procedure set out below. All disciplinary situations will be dealt without unreasonable delay.

In the event of absence of any of those involved, except for the employee who is the subject of the procedure, a deputy may take their place provided that this will not jeopardise the likelihood of a fair outcome.

### **Suspension without Prejudice**

The Headmaster, or any other member of the SLT nominated by him, has the authority to suspend an employee from carrying out all or any part of their duties and/or attending work or School premises, if for any reason he considers it necessary to do so.

Suspension is not in itself regarded as a disciplinary action and does not imply that any decision has been made regarding the allegations. Suspension will be for no longer than is necessary to investigate any allegations of misconduct or so long as is otherwise reasonable. It will be kept under regular review and brought to an end as quickly as possible following a full investigation.

Examples of circumstances that may warrant suspension include: fighting or violence between colleagues, alleged criminal offences or sensitive situations. The School will suspend an employee in almost every instance of an alleged breach of the School's Child Wellbeing and Protection Policy and Guidance to Staff and Governors, and in consultation with the Child Protection Co-ordinator, refer this to Social Care Direct.

The reasons for suspension will be notified to the employee in writing. During a holiday period this letter may be delivered also via email.

Suspension will be on full pay and will normally be for the purpose of enabling the carrying out of investigations (e.g. potentially including but not limited to, by the Police, any appropriate regulatory authority such as Care Inspectorate, Education Scotland, SSSC and/or any other relevant authority/authorities and (but only where appropriate) the School itself).

Even where regulators and/or the Police decide to take no further action, suspension may be continued pending the conclusion of any internal School investigation, or for any other valid reason, including pending the conclusion of disciplinary action or relevant proceedings of any nature.

Whilst on suspension, an employee must remain contactable and must be available to attend any investigation/disciplinary meeting during normal working hours, unless mutually agreed otherwise.

Whilst an employee is on suspension, he/she should not attempt to contact colleagues connected to the case with the exception of their Trade Union representative/work colleague (who is to accompany them at any subsequent meeting, if proven that there is a case to answer). The employee should not be in contact with the press or comment on the situation on open social media.

Where appropriate, during any disciplinary investigation or suspension, the Headmaster or Bursar will appoint a senior member of staff, who is not involved in the disciplinary procedure, to provide guidance and support to the member of staff under investigation or suspension.

If the employee is living in School provided accommodation and suspended, then the School reserves the right to re-house the employee and their family in suitable accommodation for the period of the suspension. If the suspension is related to an alleged breach of the School's Child Wellbeing and Protection Policy and Guidance, then re-housing will occur in almost every instance.

### **Formal Disciplinary Procedure**

#### **Investigation**

When a potential disciplinary matter arises a senior member of staff will, as soon as reasonably practicable, carry out an investigation into the matter. Where the matter concerns the alleged conduct of the Headmaster, the Chairman of the Board of Governors will appoint a Governor to investigate the matter.

In all cases, the investigation will be confined to establishing the facts and gathering any relevant documentation. Where necessary, the investigating officer will obtain statements from any relevant individuals. An investigatory meeting with the employee may take place if considered appropriate by the investigating officer.

#### **Notification**

If, as a result of the investigation, it is decided that there is a disciplinary case to answer, the employee will be invited to attend a disciplinary meeting.

The employee will be informed in writing of the nature of the allegations and will be provided with copies of any written evidence gathered during the investigation unless advice is given that legally The School is not able to do so, for example due to an on-going Police investigation.

Where either party intends to call any relevant witnesses at the disciplinary meeting, advance notice of their intention to do so must be given.

#### **Disciplinary Meeting**

A disciplinary meeting will be conducted by the Headmaster or Bursar or an appropriate senior member of staff appointed by them, who has had no prior involvement. Where the matter concerns the alleged conduct of the Headmaster, a panel of three Governors (who have had no prior involvement in the matter) will conduct the disciplinary meeting.

In all cases, the employee may be accompanied by a Trade Union representative or colleague if desired. The employee and his/her companion should make every effort to attend the disciplinary meeting. In the event that the employee fails to attend the disciplinary meeting this will usually be rearranged once, but should they fail to attend the rearranged meeting then a decision may be reached in their absence.

The employee will be given the full opportunity at the disciplinary meeting to explain the matter and respond to the allegations.

The employee's representative can put the employee's case and sum it up, or respond on the employee's behalf to any view expressed at the hearing. The representative can also confer with the employee during the hearing. However, the representative is not permitted to answer questions which have been asked of the employee directly.

A note taker will usually be present but will not be involved in the decision making process.

If, following the disciplinary meeting, it is decided that a warning is warranted, the employee will be advised of the decision in writing and also will be advised in writing of:

- the failure to meet the required standard
- any action required by the employee to remedy the situation
- any relevant review period /duration of warning and the consequences of continued or subsequent failure to reach and sustain the required standard of performance or conduct
- the right of appeal

In the event that disciplinary action is warranted one of the sanctions below may be issued.

- **Verbal Warning**  
In the case of a first act of minor misconduct or minor under performance, the employee will be given a verbal warning and will be told of the precise nature of the offence, the likely consequences if further offences occur and specifying, if appropriate, the improvement required and the period during which this improvement is required.
- **Written Warning**  
In the case of a first act of misconduct or under performance, or a repetition of earlier minor offences or a failure to improve, the employee will be given a written warning, setting out the precise nature of the offence, the likely consequences of further offences and specifying, if appropriate, the improvement required and over what period.
- **Final Written Warning**  
In the case of a sufficiently serious offence or under performance, or a repetition of earlier offences the employee will be given a final written warning, setting out the precise nature of the offence, the likely consequences of further offences and specifying, if appropriate, the improvement required and over what period. This may include a statement that any recurrence or no improvement may lead to a dismissal or to some other action short of dismissal.
- **Dismissal**  
This stage will normally result from continued failure by the employee to act on previous warnings, continued failure to make sufficient improvements or an act of gross misconduct. If the decision to dismiss is made the employee will be informed in writing of the reason for dismissal and the date on which the contract between the parties will terminate and the appropriate period of notice. In cases of gross misconduct the employee may be dismissed without notice or payment in lieu of notice (known as summary dismissal).

#### **Alternatives to Dismissal**

Once a decision has been reached that dismissal is warranted, the School has the discretion to consider the following actions short of dismissal:

- suspension without pay
- demotion
- transfer to a different role

These sanctions may be issued with or without a written warning.

Examples of actions which constitute **gross misconduct** include (but are not limited to):

- serious breach of the School's Child Wellbeing and Protection Policy and Guidelines
- serious breach of health and safety rules
- serious breach of the School email and internet use policy
- serious breach of GTCS Professional Standards or SSSC Codes of Conduct
- serious breach of School policies or procedures

- failure to respond to warnings/targets as part of Capability Policy
- gross insubordination
- theft or fraud from either the School or colleagues or deliberate damage to School property or that of colleagues
- work being affected as member of staff under the influence of drink or illegal drugs
- disorderly or threatening conduct on School premises
- negligence resulting in serious loss, damage, or injury
- gross neglect of duty
- assault or attempted assault
- falsification of records
- criminal conviction having a material bearing on employment, and in particular, any which result in an employee being placed on the Sex Offenders' List or being removed from the Protection of Vulnerable Groups Scheme
- bullying or harassment of colleagues, pupils or parents
- abuse or suspected abuse of the employee's position of trust in relation to pupils at the School
- bringing the School into disrepute
- behaving in a way, in work or outside of work, which would call into question the employee's suitability to work in a school

Although not an exhaustive list, the following are examples of **unsatisfactory conduct**:

- breach of School policies or procedures
- poor time-keeping
- unacceptable levels of attendance
- unauthorised absence
- short-term unacceptable standard of work performance (See Capability Policy)
- negligence
- refusal to carry out a reasonable instruction

### **Appeals**

An employee may appeal against a disciplinary decision within five working days of receipt of the written decision. Such appeals are to be made in writing to HR.

The appeal hearing will be convened as soon as is reasonably practicable. The appeal hearing will be held by the Headmaster or Bursar, or a Governor or panel of up to three Governors (who have had no prior involvement). The Headmaster or Bursar will not hear the appeal if they held the disciplinary meeting. Where the matter concerns the conduct of the Headmaster, a panel consisting of the Chairman of the Board of Governors plus two Governors (who have had no prior involvement) will conduct the appeal hearing.

In all cases, where new evidence arises prior to or during the appeal the employee will be given access to any relevant information or evidence and will have the opportunity to make representations. The employee will have the right to be accompanied at any appeal hearing by a colleague or trade union representative. The employee will be informed in writing of the decision of the appeal hearing following the conclusion of the hearing. Such decision will be final. In the event of an unsuccessful appeal against a decision to dismiss the original dismissal date shall stand.

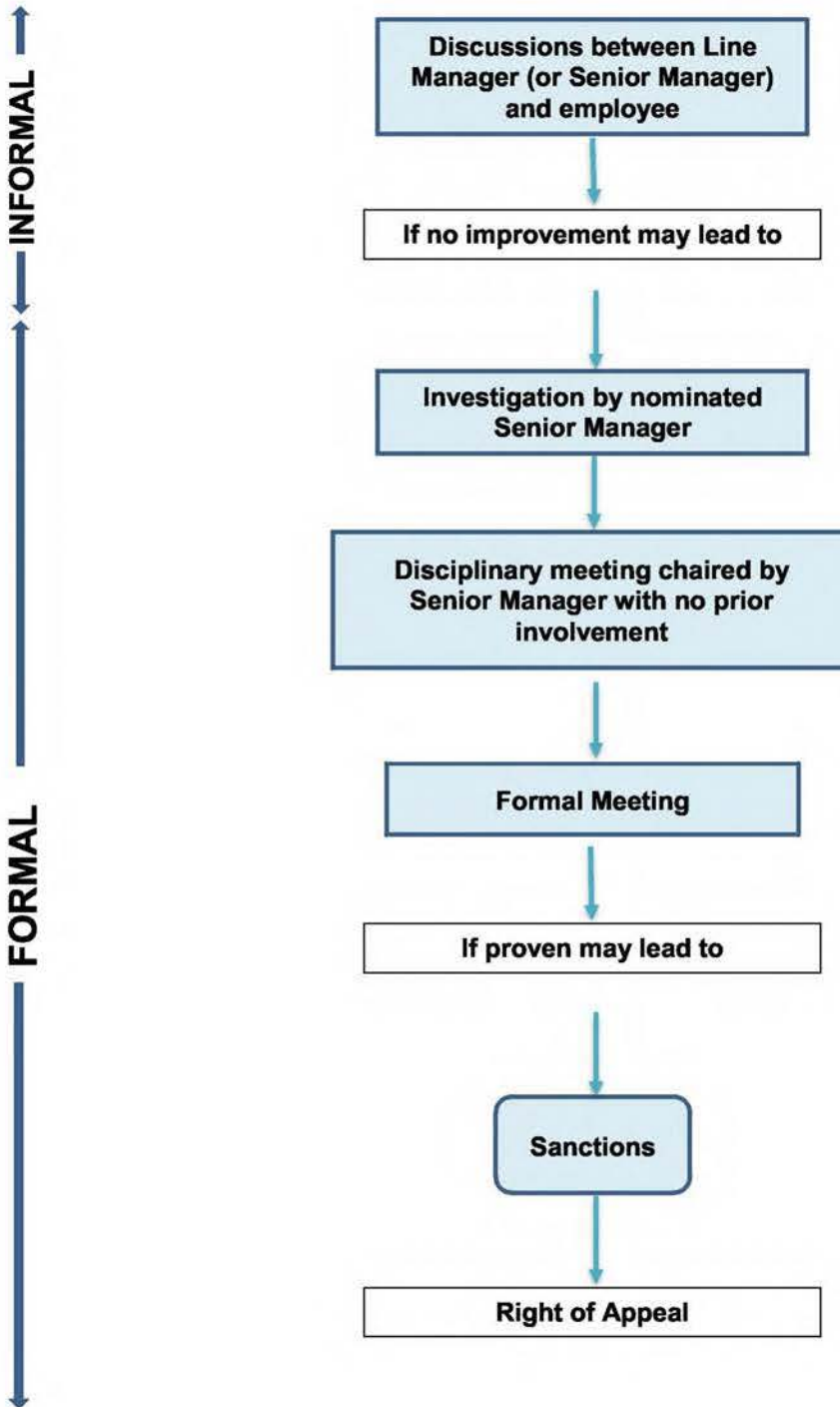
### **Record Keeping**

A copy of all formal warnings will be retained on an employee's personal file but will be considered spent after a stated period of between 6 and 12 months. Any record relating to a breach of the Child Wellbeing and Protection Policy and Guidance will be retained indefinitely.

The School will suspend an employee in almost every instance of an alleged breach of the School's Child Protection, Safeguarding and Wellbeing Policy, and in consultation with the Child Protection Co-ordinator, refer this to the appropriate external agency.

Appendix 1

*Disciplinary Process*



# Allegations of Abuse against Members of Staff and Volunteers at Merchiston Castle School

Procedure for all Staff and Governors

**August 2016 v2**

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Policy Written in consultation with:	
School Leadership Team	19.09.16
Housemasters, PSLT and ALT	26.04.17
All staff	26.04.17
External Professional Legal advisors	November 2016, January 2017
Governors' CP & Compliance Committee	February 2017 and 22.05.2017 Adopted by Governors, 12.06.2017
Staff	07.11.16
Author	PKH/AWJ with Heather Smith
Version Number	3
Date Adopted	12 June 2017
Review Date	June 2018

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## 1. Introduction

At Merchiston Castle School our aim is always 'Boys First'. To achieve this aim we must consider the wellbeing and safety of our children and young people above all else. The quality of education and care at Merchiston must come from individuals who have exemplary teaching and caring backgrounds; we ensure this with a cycle of safe practice. We must also ensure that whilst in employment our staff act with exemplary conduct and with only the best interests of our children and young people. In the interests of all children and young people, Merchiston has to act accordingly with legislation requirements:

- demonstrating safe recruitment and selection processes involving Disclosure Scotland's Protection of Vulnerable Groups (PVG) Scheme;
- ensuring staff who are to undertake and maintain professional registration do so;
- comprehensive training and development;
- ensure robust Human Resources policy and procedure and
- where concerns arise regarding a member of staff's behaviour investigate quickly and accordingly; the outcome of which we may be required to report to the Disclosure Scotland (PVG) Scheme.

Only when this cycle of safe care is followed does it ensure that all children and young people are kept safe within our school.

Our duty of care is also to our staff: that regardless of any allegation made that the member of staff is supported throughout the process. It is important to have a procedure that relays the process with as much clarity as possible in what can be a complex and sensitive situation. Having robust policy and procedures also assists in creating staff that are confident to challenge concerning behaviour.

## 2. Scope of this Document

The aim of this document is to ensure that if an allegation is made against a member of staff or volunteer at Merchiston it is taken seriously, consistent with procedure and investigated timeously, appropriately and proportionately. An allegation may arise when there is a concern that a member of staff or volunteer is behaving in a way that is a concern (see below).

This document sets out the procedure for our duty of care to both employee and child or young person during the course of an allegation and beyond such allegation.

This procedure applies to all staff, volunteers and managers including members of the Board of Governors and has been written to sit within Merchiston's policy for Child Wellbeing and Protection (2016), Child Wellbeing and Protection Guidance for all Staff (2016) and is consistent with the Edinburgh and Lothian's Inter-agency Child Protection Procedures (2007). All staff, managers and volunteers should be familiar with overarching policies pertaining to this procedure.

This procedure has been written to form part of the Child Protection framework for protecting children and young people at Merchiston and ensuring that all pupils are kept safe and free from harm whilst undertaking their education, not only at Merchiston but where a member of staff or volunteer with concerning behaviour moves on and presents a risk of abuse or harm to children and young people. By ensuring robust policy and procedure in managing allegations made against staff, we can deter those that seek access to children and young people.

Where a child or young person makes an allegation that is false or malicious, the child or young person must receive the care and intervention needed.

This procedure has been developed to assist in the fact-finding process required when an allegation is made. This procedure ensures a consistent and proportionate response to any allegation and that where there is a requirement for other agencies to be involved it is done so consistent with local Child Protection procedures.

### 3. Definitions

For the purpose of this document the following definitions apply:

**Allegation** - Where a claim or assertion has been made that someone has conducted a wrongful or illegal act.

**Abuse** - In line with the Edinburgh and Lothians Inter- Agency Child Protection Procedures (2015) Abuse can be defined as *“Abuse and neglect are forms of maltreatment of a child. A person may abuse or neglect a child by inflicting, or by failing to prevent, harm to the child.”* Please see following section for further information on the Types of Abuse.

**Child or Young Person** - Any child or young person in, or having been in, our care.

**Member of staff/manager/volunteer** - Any member of staff paid or unpaid, board members and managers.

**Line Manager** - Includes Headmaster, School Leadership Team, Pupil Support Leadership Team Academic Leadership Team, Housemasters, Heads of Department and Domestic and Support Staff Managers.

### 4. Types of Abuse

Abuse can be caused by commission or by the omission of an act. Failing to protect a child or young person when it is known that they are being harmed or may be harmed by another is a form of abuse.

**Physical abuse** is the causing of physical harm to a child or young person. Physical harm can be caused by slapping, hitting, kicking and punching, shaking, throwing, causing a trip or fall or pushing, burning or scalding.

**Sexual abuse** is an act that involves a child or young person in any activity for the sexual gratification of another person whether the child or young person has claimed to consent or not to the act. This includes contact as well as non-contact sexual abuse such as exposing or enticing a child or young person to the production of indecent images, pornography, messages sent with sexual intent or innuendo using internet or mobile technology.

**Emotional abuse** can be defined as adult to child harmful interaction and is carried out to undermine a child or young person’s worth. The abuse occurs in bullying, belittling, singling out, name calling, ignoring or favouritism of others over a child or young person, shouting at a child or young person with intent to cause fear, blackmail or bribery. Any behaviour that is abuse of power to undermine self-worth and/or to make a child or young person feel that they are worthy only when they meet the needs/approval of another person. Failing to prevent any of the above behaviours in others towards their peers is also a form of emotional abuse. Discrimination of a child or young person based on sexual orientation, race or disability is also emotional abuse and is classed as a hate crime under criminal law.

**Neglect** is the persistent failure to meet a child’s basic physical and/or psychological needs, likely to result in the serious impairment of the child’s health or development. It may involve failing to provide adequate food, shelter and clothing, to protect a child from physical harm or danger, or to ensure access to

appropriate medical care or treatment. Neglect may also include failure to respond to a child's emotional needs and wellbeing.

The above is not an exhaustive list but an example for definition only.

## 5. When an Allegation of Abuse is made

An allegation of abuse against a member of staff can be made by disclosure from any individual including a child or young person, a current or former pupil, their peer or peers, a concerned member of staff, a parent or carer or a member of the public. The concern may fall into one or more of the following:

That the staff member has:

- behaved in a way that has harmed, or may have harmed a child or young person;
- possibly committed a criminal offence against, or related to, a child or young person;
- behaved towards a child or children or conducted themselves in a way that indicates s/he is unsuitable to work with children or young people

Where a staff member has a concern that they have been involved in an incident that could give rise to a concern they must report the incident to their Line Manager or the Child Protection Co-ordinator immediately. Failure to do so may be treated as a disciplinary matter.

In the first instance the staff member or their Line Manager should inform the Child Protection Co-ordinator immediately of any concern. If the concern is about the Child Protection Co-ordinator then the Senior Deputy Head or the Headmaster should be informed.

The Child Protection Co-ordinator will never act alone and will involve appropriate members of the School Leadership in the process. From this point there must be consideration of whether any child or young person is at immediate risk and whether a member of staff will require suspension from contact duties with children whilst initial enquiries are carried out. Where the allegation indicates that a child may be at risk of significant harm, an immediate referral to Social Care Direct will be made to obtain further instruction on how to proceed. The School may decide not to carry out an internal investigation immediately, if it is concerned that such an investigation will interfere with any criminal investigation.

Consideration must also be given to any children that may live with the member of staff or where the member of staff has a care role for children or young people either at home or in other employment.

## 6. Fact Finding Stage

Where an allegation has been made and the Child Protection Co-ordinator has been informed, there will be a need to gather further information. The Child Protection Co-ordinator will require full particulars of the incident or concern and to make a full record, in order to determine which steps, if necessary, ought to be taken.

In the first instance a confidential discussion with the child or young person whom the concern involves will take place. In most cases, this discussion will be carried out by the Child Protection Co-ordinator unless it is deemed that an alternative senior member of staff is more appropriate. At this stage contact with the Parent/Carer of the Child or young person will also be made in consultation with any relevant external agencies.

Following the initial fact-finding stage, the Child Protection Co-ordinator and the School Leadership Team will determine whether the allegation warrants referral to any external body and/or whether the matter ought to be dealt with as a management issue. When establishing whether a matter is to be handled as a management or disciplinary issue, advice may be sought from Social Care Direct.

The outcome of the fact-finding stage may be:

1. No case to answer
2. Management or disciplinary issue
3. Referral required to Social Care Direct

#### **No case to answer**

In some cases, it may be considered that there is no requirement on the part of the School to take the allegation further.

Where an allegation has been made falsely or with malicious intent by a child, both parties will be supported. The member of staff will receive appropriate support to be able confidently to continue in their role.

False allegations are not necessarily an intentional act of malicious behaviour: situations can sometimes be misconstrued or taken out of context. Staff should always conduct themselves professionally to avoid misconstrued behaviour. However, where an allegation is considered to have been made maliciously, School Leadership may at its discretion take any (or all) of the following steps:

- Refer the matter to Social Care Direct to determine whether the child is in need of services, or may have been abused by someone else or whether the matter should be referred to the Police
- Provide appropriate support to the child who is the subject of the allegation and their parents/carers
- Consider whether the child or young person can or should continue in the school

#### **Management or disciplinary action**

Issues of minor misconduct, such as a one-off incident of unacceptable or unprofessional behaviour, may be dealt with informally through management action. In such cases, staff will be supported to change their behaviour through training, supervision and counselling (if required). If, however, the behaviour persists or informal action is not appropriate (for example, owing to the seriousness of the allegation), the matter may be dealt with under the School's Disciplinary Policy and Procedure.

#### **Referral to services**

The initial stage of fact-finding may indicate that further investigation is required by core external agencies, including the Police, Social Care Direct and health services. This will be done in communication with the child or young person and their parents or carers in consultation with any relevant external agencies. This referral need not be made with the consent of the member of staff concerned.

The outcome of a referral to Social Care Direct may be one of the following:

- School is instructed to deal with the case as an internal disciplinary incident
- **No case to answer** - The subject of the allegation will be advised of the allegation and no further action will be taken.
- **Practice issue** - The subject of the allegation will be advised of the allegation and will be supported through supervision or additional training and support to address identified practice issues and his/her Professional Review and Development may be revised to address these issues . The allegation may also be investigated through the School’s Disciplinary Procedure.
- **Further information/investigation required** - If it is not possible at this stage to confirm definitively that there is no case to answer or that the issue is one that should be addressed through management arrangements, an immediate decision will be made, in consultation with Human Resources, regarding the suitability of the employee continuing to have direct involvement with children and young people, or whether suspension with pay and without prejudice pending the conclusion of any investigation is necessary.

It is at this point the Edinburgh and Lothians Inter Agency Child Protection Procedures will be followed:

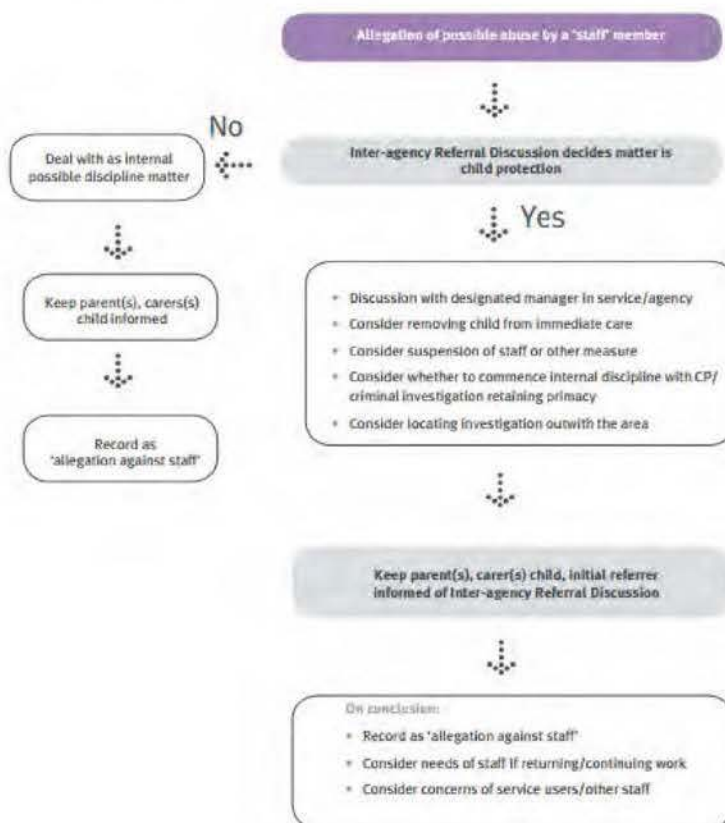


Figure 1 - Section 15 of the Edinburgh and Lothians Interagency Child Protection Procedures

## 7. Consideration of Suspension without Prejudice

In almost every instance, it may be necessary to suspend the member of staff subject to the allegation from work, pending the outcome of any investigation, in order to protect the interests of both the child or young person and the member of staff. Suspension without prejudice is a precautionary measure, does not imply guilt and is not a disciplinary penalty. Where suspension without prejudice is deemed appropriate, it will be carried out in accordance with the provisions concerning suspension, outlined in the School's Disciplinary Policy.

[Link to Disciplinary Policy](#)

## 8. Supporting those Involved

All those involved will be supported in line with the School's Disciplinary Policy.

If the matter is being investigated by an external agency, that agency will be responsible for its investigation and the School will be guided by the external agency. In such circumstances and in so far as possible, the School will endeavour to keep the employee informed of the progress of the investigation, and arrange to provide appropriate support while the case is on-going.

If the matter is being investigated by the School internally under the Disciplinary Policy, the provisions of that procedure will be followed.

It is possible for a disciplinary investigation to run concurrently with an external investigation; in some circumstances, however, the disciplinary investigation may be suspended pending the outcome of the external investigation.

During the process of an investigation the member of staff will have a single point of contact appointed to keep them up to date with progress of the investigation. The employee will be reminded of avenues of support, such as the Employee Assistance Scheme offered by "Workplace Options".

Any member of staff who resides within the School grounds may be required to be relocated during an investigation, if the employee has been suspended from work. Relocation arrangements will be made quickly and in full consultation with the member of staff. Careful consideration will be given to alternative arrangements to avoid any disruption of living arrangements. However, where it is deemed necessary to seek alternative living arrangements off-site, the School reserves the right to relocate the member of staff and their family members who reside on School grounds.

If the member of staff is registered with a professional body such as the Scottish Social Services Council (SSSC) or the General Teaching Council for Scotland (GTCS), the School is required by law to inform the body of the on-going investigation. The registration body may require their own investigation and Merchiston may be required to share information with them pertaining to the allegation and any outcome of an investigation. The sharing of information on a particular case will only be carried out with advice from the Police undertaking an investigation and in accordance with the School's Data Protection obligations.

If the conclusion of an investigation allows the member of staff to return to work, a full support programme will be discussed to allow the return.

## 9. Minimising Risk

As well as Merchiston's duty of care to its employees, all staff have a duty to ensure that they conduct themselves appropriately at all times and keep up to date with their knowledge and understanding of child wellbeing and protection. This includes understanding the terms of their employment and what is reasonably expected of them as a Merchiston employee. So too, if members of staff are registered with a professional body that they are required to conduct themselves in line with the requirements of their registration. Each registration body such as the GTCS and the SSSC have a code of conduct that registered staff are expected to adhere to. In addition to this, or where there is no professional registration, Merchiston expects that all staff conduct themselves professionally and without cause for question or concern over their behaviour. In doing so, there are ways to minimise the risk of an allegation of abuse and all staff should be familiar with and put into place safe practice in their day to day work:

- Employers and managers have a responsibility to ensure that relationships between staff and children are professional and appropriate
- All staff need to be clear about what constitutes appropriate behaviour and professional boundaries
- Managers who address these issues will enable staff to approach their role with confidence

For full guidance on minimising risk staff should read and be familiar with the following documents:

- Child Wellbeing and Protection Policy (2016)
- Child Wellbeing and Protection Guidance for Staff and Governors (2016)
- Disciplinary Policy
- Child Sexual Exploitation Policy (2016)
- Staff in Boarding House Guidelines
- Child Wellbeing and Protection Card
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## 10. Confidentiality

In line with Merchiston's duty of care to employees all staff who are subject to disciplinary investigation/action whether on suspension or not, proceedings will be carried out in strict confidentiality. No case will be discussed with any member of staff other than those required to be involved in the proceedings and information will be on a strict need to know basis.

Any child or young person involved in an allegation, and their parents/carers, may be asked to sign a non-disclosure agreement whilst the investigation is carried out.

Any requests from the press or media will be dealt with having regard to data protection and the confidential nature of the case and, where appropriate, under rules of sub-judice (which relates to matters under judicial consideration by the courts which are prohibited from public disclosure).

## 11. Record Keeping

Where a member of staff has had an allegation made against them the outcome will determine the required record keeping:

- Allegation was false or malicious – A file note will be kept on the employee’s record that the employee was subject to a malicious or false allegation and what supports were made available. The focus of this file note is purely in support of the employee.
- Allegation was unfounded or unsubstantiated – The following details of the allegation will be kept on the employee’s record: A clear and comprehensive summary as well as how the allegation was followed up and resolved and a note of any action taken and decisions reached.

Cases in which an allegation was proven to be false, unsubstantiated, unfounded or malicious will not be included in employment references unless specifically requested on a reference form.

It is important to retain details of any malicious, false, unfounded or unsubstantiated allegations to ensure that a repeat investigation is not required if the allegation resurfaces in the future.

- Allegation was substantiated as a conduct issue - details will be required to be held on the person’s employment record. Where an investigation has taken place, the member of staff and the employer has a duty to inform registration bodies (where applicable) such as GTCS or SSSC. For more information on conduct issues resulting in disciplinary proceedings please refer to Disciplinary Policy.
- Allegation investigated and substantiated - details recorded and referral made under legal duty to Disclosure Scotland’s Protection of Vulnerable Groups (Scotland) Act 2007.

**Records of substantiated Child Protection allegations of any severity will be kept on file and will always be included in any reference provided.**

## 12. Resignations and Settlement Agreements

During the time of any allegation, it is understood that it can be a stressful time for all involved. It may be a time where an employee wishes to tender their resignation or cease to provide a service. If this is the case it must be made clear to the member of staff or volunteer that the investigation will still continue and be brought to a conclusion.

Where an allegation of abuse has been substantiated, Settlement Agreements, where the member of staff agrees to be released from employment in exchange for a favourable reference for future employment or a financial consideration, will never be an option in any case.

## 13. Management Failure to Act

This procedure, in line with Merchiston’s Child Protection Policy and Guidance ensures that an appropriate, timely and proportionate response is required into any allegation against a member of staff and that it is carried out with consistency and with transparency. However, if a member of staff feels that their concerns are not acted upon there are alternative routes for concerns to be shared. Members of staff should always follow this procedure in the first instance. The outcome of any investigation may not be discussed with those raising a concern, as this would contravene employee rights to privacy and confidentiality, but a response can be made to whoever raises a concern, assurances that procedure will or has been followed. If the referrer is still unhappy that their concerns are not being acted upon or their concerns are dismissed, the alternative routes for concerns to be raised formally are:

- Whistleblowing Policy and Procedure
- Direct contact with Social Care Direct



- Care Inspectorate

Anyone raising a concern through the Whistleblowing Policy should do so in the knowledge and understanding that they have a right to do so without fear of victimisation or retaliation.

#### **14. Historical Abuse Claims**

Sometimes an allegation of abuse will be made some time after the abuse/alleged behaviour has happened. The time lapse from abuse to disclosure often means that the victim has reached adulthood; however, it is not always the case and the child could be a young person still in Merchiston's care. In every case, all historical abuse disclosures will be taken seriously and acted upon accordingly with a referral to Social Care Direct for core agency investigation.

#### **15. Learning Lessons**

If an allegation is substantiated, the School Leadership Team and Governors will review aspects of the case to learn from decisions made and how they were acted upon. This will include whether there are features of the organisation that may have contributed to, or failed to prevent, abuse occurring. Merchiston has a continued commitment to review recruitment policies and the measures in place to ensure on-going vigilance. In some cases a 'Case Review' may be appropriate - this is where the case is reviewed to consider whether there are any lessons to be learnt and actions to be taken that should be shared more widely, so as to improve practice.

#### **16. Legal Framework**

- National guidance for Child Protection in Scotland, 2014
- Edinburgh and Lothians Inter-agency Child Protection Procedures, 2007 Updated 2015
- Protection of Vulnerable Groups, 2007
- Getting it Right for Every Child (GIRFEC), 2005
- Children and Young People (Scotland) Act, 2014
- Protection of Children and Prevention of Sexual Offences (Scotland) Act, 2005
- Sexual Offences (Scotland) Act, 2009
- Children (Scotland) Act, 1995
- The Human Rights Act (1998)
- The Data Protection Act (1998)
- Equalities Act (2010)