



Education Act 2011

2011 CHAPTER 21

PART 3

SCHOOL WORKFORCE

VALID FROM 01/10/2012

Reporting restrictions

13 Restrictions on reporting alleged offences by teachers

(1) In Part 8 of EA 2002 (teachers), after section 141E (inserted by section 8), insert—

*“Allegations of offences committed by teachers
in England and Wales: reporting restrictions*

141F Restrictions on reporting alleged offences by teachers

- (1) This section applies where a person who is employed or engaged as a teacher at a school is the subject of an allegation falling within subsection (2).
- (2) An allegation falls within this subsection if—
 - (a) it is an allegation that the person is or may be guilty of a relevant criminal offence, and
 - (b) it is made by or on behalf of a registered pupil at the school.
- (3) No matter relating to the person is to be included in any publication if it is likely to lead members of the public to identify the person as the teacher who is the subject of the allegation.
- (4) Any person may make an application to a magistrates' court for an order dispensing with the restrictions imposed by subsection (3).

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- (5) The court may make an order dispensing with the restrictions, to the extent specified in the order, if it is satisfied that it is in the interests of justice to do so, having regard to the welfare of—
 - (a) the person who is the subject of the allegation, and
 - (b) the victim of the offence to which the allegation relates.
- (6) The power under subsection (5) may be exercised by a single justice.
- (7) In the case of a decision to make or refuse to make an order under subsection (5), a person mentioned in subsection (8) may, in accordance with Criminal Procedure Rules—
 - (a) appeal to the Crown Court against the decision, or
 - (b) appear or be represented at the hearing of such an appeal.
- (8) The persons referred to in subsection (7) are—
 - (a) a person who was a party to the proceedings on the application for the order;
 - (b) any other person with the leave of the Crown Court.
- (9) On an appeal under subsection (7), the Crown Court may—
 - (a) make such order as is necessary to give effect to its determination of the appeal, and
 - (b) make such incidental or consequential orders as appear to it to be just.
- (10) The restrictions in subsection (3) cease to apply once proceedings for the offence have been instituted.
- (11) The restrictions in subsection (3) also cease to apply if—
 - (a) the Secretary of State publishes information about the person who is the subject of the allegation in connection with an investigation or decision under section 141B (investigation of disciplinary cases by Secretary of State) relating to the same allegation, or
 - (b) the General Teaching Council for Wales publishes information about the person who is the subject of the allegation in connection with an investigation, hearing or determination under Schedule 2 to the Teaching and Higher Education Act 1998 (investigation of disciplinary cases by the General Teaching Council for Wales) relating to the same allegation.
- (12) The restrictions in subsection (3) also cease to apply if—
 - (a) the person who is the subject of the allegation includes a matter in a publication, or
 - (b) another person includes a matter in a publication with the written consent of the person who is the subject of the allegation;and, in either case, the inclusion of the matter in the publication would otherwise be in breach of subsection (3).
- (13) Written consent is to be ignored for the purposes of subsection (12)(b) if it is proved that any person interfered unreasonably with the peace or comfort of the person giving the consent, with intent to obtain it.
- (14) In this section—

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“publication” includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public (and for this purpose, every relevant programme shall be taken to be so addressed), but does not include—

- (a) an indictment or other document prepared for use in particular legal proceedings, or
- (b) a document published by the regulator of a profession of which the person who is the subject of the allegation is a member in connection with disciplinary proceedings in relation to the person;

“relevant criminal offence”, in relation to a person employed or engaged as a teacher at a school, means an offence against the law of England and Wales where the victim of the offence is a registered pupil at the school;

“relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990.

- (15) For the purposes of this section, proceedings for an offence are instituted at the earliest of the following times—
- (a) when a justice of the peace issues a summons or warrant under section 1 of the Magistrates' Courts Act 1980 in respect of the offence;
 - (b) when a public prosecutor issues a written charge and requisition in respect of the offence;
 - (c) when a person is charged with the offence after being taken into custody without a warrant;
 - (d) when a bill of indictment is preferred by virtue of section 2(2)(b) of the Administration of Justice (Miscellaneous Provisions) Act 1933.

141G Offence of breach of reporting restrictions

- (1) This section applies if a publication includes any matter in breach of section 141F (3).
- (2) Where the publication is a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical is guilty of an offence.
- (3) Where the publication is a programme included in a programme service (within the meaning of the Broadcasting Act 1990), the following are guilty of an offence—
 - (a) any body corporate engaged in providing the programme service in which the programme is included, and
 - (b) any person having functions in relation to the programme corresponding to those of an editor of a newspaper.
- (4) In the case of any other publication, any person publishing it is guilty of an offence.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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- (6) If an offence committed by a body corporate is proved—
 - (a) to have been committed with the consent or connivance of, or
 - (b) to be attributable to any neglect on the part of, an officer, the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (7) In subsection (6), “officer” means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.
- (8) If the affairs of a body corporate are managed by its members, “director” in subsection (7) means a member of that body.
- (9) Schedule 11B contains supplementary provision relating to an offence under this section.

141H Defences

- (1) Where a person is charged with an offence under section 141G, it is a defence for the person to prove either of the matters mentioned in subsection (2).
- (2) The matters are—
 - (a) that, at the time of the alleged offence, the person was not aware, and neither suspected nor had reason to suspect, that the publication included the matter in question;
 - (b) that, at the time of the alleged offence, the person was not aware, and neither suspected nor had reason to suspect, that the allegation in question had been made.”
- (2) Schedule 4 (offence of breaching reporting restrictions: application to providers of information society services) has effect.

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