

## Researching Barriers to Cultural Change for Those in Loco Parentis

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### Abstract

Drawing on recent research on professional fears around touching children, and also on the consequences for those professionals who find themselves the subject of a false allegation of abuse, this paper considers some of the barriers to changing the 'parenting' culture of those *in loco parentis*. It consists of three linked sections. The first sets the scene by describing briefly the research relating to 'touch' and to 'false allegation' as well as outlining the particular ethical and methodological approach of the latter. This leads into the central section of the paper which comprises a first person account of the experiences of a male teacher who was wrongly accused and convicted of touching young children inappropriately in the classroom, serving a prison sentence before being found not guilty. In spite of this verdict his career is ruined and he will not be able to teach or work with children/vulnerable adults in the future. The final section reflects on the implications of this and other accounts, and offers tentative suggestions as to how accusations could be dealt with in a more appropriate way. The challenge is to identify principles and practices which are in keeping with our joint responsibility in relation to human rights (ie those of both children and professionals), and which also contribute towards encouraging the changes required in the 'parenting' culture of those *in loco parentis*.

**Keywords:** False Accusation, Sensitive Research; Carers' and Educators' Lives and Careers; Parenting, Touch

### Introducing the research

1.1 The term *in loco parentis*, translates more or less as 'in the place of a parent', and refers to the legal responsibility of a person or organization to take on some of the functions and responsibilities of a parent. The phrase was derived from English common law and has two different usages: firstly, it allows for a non-biological parent to be given the legal rights and responsibilities of a biological parent when caring for a child not their own; secondly it allows institutions such as schools to carry out some parenting responsibilities, but this does not allow for what could be considered to be a violation of a young person's civil liberties. The first usage is perhaps closer in meaning to the term *parens patriae*, which incorporates the psychological aspects of parenting, for example, those required in an adoption situation. Problems would appear to arise in the change of understanding of the second usage, which allows a professional to care for a child or young person, but not to violate their civil liberties. Civil liberties have clearly changed in recent decades, and understandings are not always clear.

1.2 When we were both at school, throughout the 1960s and into the 70s, the nature of the relationship between children/young people and adults generally and (in relation to the focus of this paper) teachers specifically, was in many ways quite different to how it would seem to be perceived and experienced nowadays. Teachers would behave towards and treat the children in their care in the way that a responsible parent would (see Page, 2010). Thus, until 1987 when it became illegal, corporal punishment could be administered in schools and children who were hurt, distressed or upset, could expect to have an arm put around them or, if they were small, to be picked up and given a cuddle to 'make it better'. Over the years however, as instances of abuse came to light and as understandings about power and voice altered, contact between adults and children, teachers and students, came to be regarded with suspicion and as an area of concern. Furthermore, behaviours which were previously treated informally as normal and natural interchanges, such as administering a sticking plaster to a cut knee, became subject to formal procedures and reporting regimes.

1.3 The two research projects which we describe here both came about as a result of the consequences of these sorts of changes, with far reaching implications for teachers, children, parents and society in general. The first project (Piper *et al.* 2006) was concerned with the fears that had been identified around the touching practices between professionals and children in the UK and elsewhere - mainly in anglophone countries. Explanations of these fears included reference to moral panics, perceived risks, and fears of litigation (see below). As a result, many child-orientated arenas had become 'no touch' zones (Tobin, 1997; Johnson, 2000). The aims and objectives of the ESRC funded project were: to establish the nature of, and issues concerning, adult-child touching *in loco parentis* contexts, including education and childcare settings; to map and evaluate different contexts of adult-child touching in professional settings, taking account of variations in age, gender and cultural practices; to enhance understanding of the nature, significance and consequences of touch, based on child and adult perspectives of touching behaviours; to develop guidelines for professional development; and to disseminate findings to practitioners, professional organisations, academics and policy makers. All objectives were met with the exception of the preparation of guidelines, as a significant outcome of the research and reflection on the process was the determination that this was not an appropriate response. See <http://www.esrcsocietytoday.ac.uk/ESRCInfoCentre/ViewAwardPage.aspx?AwardId=3451>

1.4 The research began with a survey which prompted more than 400 replies, yielded exemplar 'guidelines' and provided the opportunity to invite interest in the project. Six case studies comprised children and young people in pre-school; primary/junior school; secondary school; a school for those experiencing severe physical and emotional difficulties; a residential school where educational and care discourses intermingled; and Summerhill School as an 'alternative' or 'free' educational setting that was expected to be differently affected by 'touching' issues (see Neill, 1960 and Vaughan, 2006, for a discussion of the unique characteristics of Summerhill School). The key finding was that touching behaviours need to be understood in the context of different relationships and purposes; touch itself is not important, but motive and context are. The cases showed that professional activity is usually based on a sophisticated judgement of motive and context, guided partly by 'good sense'. Yet this understanding is missing from policy and guidelines. Over-scripted protocols lead to defensive professional reactions, whereby central aspects of relationships, trust, responsibility, and individual discretion are over-ridden by considerations of 'risk'. Therefore, it was concluded that we need a different sense of professionalism, based on trust and agency, to counter the risk of incremental erosion of caring interaction between adults and children. However, this is rarely the case - see below.

1.5 We became interested in the second project, investigating teachers' perceptions and experiences of having allegations of sexual misconduct made against them, as a result both of hearing a number of stories concerning individuals so accused, and because of our respective previous work on topics which linked teachers and sex. In addition to the research around touch which Heather had been involved in outlined above (see also Piper & Smith, 2003; Piper *et al.* 2005; Piper & Stronach, 2008), Pat had investigated consensual sexual relationships between male teachers and female students over the legal age of consent (see Sikes, 2006; 2008). Our reading around the area had made us aware that teachers in other countries were also becoming increasingly fearful of being accused of sexual abuse (see for example, Jones, 2001; 2004; Shakeshaft, 2004; Cavanagh, 2007; Johnson, 2008) and that this fear was negatively affecting pedagogy and recruitment (particularly of men) to the profession (see Skelton, 2003; Simpson, 2009).

1.6 It became clear to us that allegations against teachers are not unusual these days and the incidence of false accusations is rising (Revell, 2007). Within the UK, figures compiled by the NASUWT (Williams, 2004), show that, whilst in 1991, 44 such allegations were made against their members, in 2003 there were 183. In a move which seems to acknowledge a growing problem, a network of Investigation and Referral Support Co-ordinators (IRSCs) was formed in 2001 to help Local Education Authorities (LEAs), police, and social services deal with allegations of child abuse by teachers, school staff, and carers. IRSC data on 1,629 allegations recorded by 122 LEAs between September 2003 and August 2004 showed that 30% concerned sexual abuse and inappropriate behaviour, the majority being made against men (DfES, 2004a, 1.8, and 1.9). The official line is that 'fortunately, cases of malicious allegations or false allegations that are wholly invented are very rare' (DfES, 2004b, 2.9). However such confidence fails to match the reality that, at the time when this assertion was first made, a professional association, the NASUWT, recorded that fewer than 4% of cases of alleged (physical and sexual) abuse involving 1,907 of their members over 'recent years' had resulted in a conviction (NASUWT, 2004). Whilst these figures do not necessarily mean

that 96% of allegations were untrue they do reveal something of the scope and nature of the problem. More recent, but less precisely dated figures suggest a similar rate of proven guilt. Thus, 'over the last few years there have been 2,316 allegations against NASUWT members alone. Of the 2,231 (cases which have been) concluded, in a staggering 2,116 either no grounds were discovered for prosecution or the allegation was not proven at court' (NASUWT, 2009). It was a combination of the increasing problem and the stories that we heard about accused men, that led to our decision to look into this issue further, because it did seem that they and their families were often going through terrible, and even Kafkaesque, experiences which did not end even when there was found to be no substance to the accusations.

**1.7** The task of re-presenting research which focuses on sex related topics poses particular problems<sup>[1]</sup>. It is 'sensitive' work (Lee & Renzetti, 1990; Lee, 1993; Liampittong, 2007; Renzetti & Lee, 1993) because even though sexual images and stories seem to confront us any- and every- where, sex is still a taboo subject that people are not always comfortable or honest talking about. That this is so, is reflected in the challenges around obtaining 'reliable' data reported by sex researchers (eg Frith, 2000; Saunders, 2008). When the focus is on sex which is regarded as being outside of the norm or perverted or illegal the difficulties are magnified (O'Connell Davidson & Layder, 1994).

**1.8** Deborah Britzman suggests that it is the job of the 'little sex researcher' (Britzman, 1998: 77) to queer and interrogate taken for granted understandings about 'innocence and guilt, normality and deviance' (*ibid*: 74). Britzman (Jones, 1996; Mitchell & Weber, 1999) is primarily concerned with relationships between epistemology, pedagogy and Eros. Her words, however, clearly have implications for research that in any way links sex with professionals working *in loco parentis* with students/pupils. Further as a result of the dominant discourses around child protection which shape policies and procedures (see Sikes & Piper, 2010), such research inevitably implicates a number of difficult ethical, moral, practical and technical questions and issues for researchers, participants and others who may, in whatever way, be touched by it (Cavanagh, 2007; Johnson, 2008; Sikes, 2008; Sikes & Piper, 2008; 2009). These difficulties are compounded at a time when, especially within the UK, North America, Australia and New Zealand there is a moral panic around child protection and abuse, and fear of the paedophile taints adult-child relationships in general (see Bauman, 2006; Jones, 2004; McWilliam & Jones, 2005; Piper *et al*, 2005; Piper & Stronach, 2008). In this paper we focus on writing about and re-presenting the experiences of those alleged to have committed sexual offences, rather than on the consequences for researchers or the problems associated with any other aspect of the research process, which we discuss elsewhere (Sikes & Piper, 2008; 2010).

**1.9** In the current climate, anybody suspected of being a paedophile, regardless of how thin the evidence is extremely vulnerable to negative public attention, harassment, violence, and even murder. A characteristic of moral panics (see Cohen, 1972; Ungar, 2001) occurring within 'risk societies' (see Beck, 1992) is that, (and as we know on the basis of our own experiences), the media seem prepared to go to extraordinary lengths, including trawling through academic publications, in order to 'expose' paedophiles (Sikes, 2008; Sikes & Piper, 2010) and there have been cases where innocence and mistaken identity have been revealed too late to prevent tragic consequences (see, for instance, Lewis, 2008).

**1.10** Researchers, no matter what they are investigating, always have a responsibility to do all in their power to protect those who take part in their research from any possible harm. The people – teachers, family members, colleagues – who agreed to participate in our investigation of allegations of sexual misconduct could not, we believed, be adequately protected by standard strategies of pseudonyms and the disguise of personal and contextual details. As Martin Tolich has argued, pseudonyms take no account of the threat posed by 'internal confidentiality' (2004). In other words, simply giving different names and altering contextual details is unlikely to 'fool' or 'hoodwink' others involved in, or aware of, the complex of relationships the pseudonyms are meant to conceal. Carolyn Ellis found this out to her cost when she returned to the community of fisherfolk she had researched and written about (Ellis, 1995; 2007) and similar issues have been discussed in relation to the *Street Corner Society* controversy (Boelen, 1992; Richardson, 1997a; Whyte, 1992).

**1.11** We could simply not risk providing any clues whatsoever as to whom our informants were, even though we were as sure as we could be that they were innocent (and we explain the checks we put in place in Sikes & Piper, 2010). We needed to go beyond anonymity and so, building on Andrew Sparkes' (1995) use of composite characters to protect the lesbian and gay PE teachers he worked with from being outted, we developed an ethnographic, composite, fictional, storied approach.

**1.12** Laurel Richardson writes about 'combination genres' in which 'fictional stories, field notes, analysis, reflexivity can all co-exist as separate (and equal?) components' (1997b: 67). Elsewhere she also suggests that 'if ethnography claims *only* to be 'fiction' then it loses any claims it might have for groundedness and policy implications' (1997a: 108). Our approach explicitly combined fiction and ethnographic data, aimed to 'bring the written product of social research closer to the richness and complexity of lived experience' (Bochner & Ellis, 1998: 7) because we agree that fictionalised stories can:

evolve emotions; broaden audiences; illuminate the complexity of body self relationships; include 'researcher', 'participant' and 'reader' in dialogue; help us to think ... invite the reader-as-witness to morally breathe and share a life within the storytelling relation ... they are a powerful means of conveying complexity and ambiguity without prompting a single, closed, convergent reading ... The genre becomes an opportunity and a space where one may relinquish the role of the declarative author persuader and attempt to write as, and be represented by, an artfully persuasive storyteller. (Smith, 2002: 113–114)

**1.13** We believe that such evocation helps to invoke (if not kick start) the sociological imagination, linking personal to public (Mills, 1970) thereby improving the chances of influencing policy. And indeed, that we were invited, on the basis of our work, to make a submission to a (House of Commons) Children, Schools and Families Select Committee Inquiry (see later) into *Allegations against School Staff* (CSF, 2009) supports this contention.

**1.14** Thus we fictionalised the accounts we were given, creating characters, contexts and settings, inventing dialogue and crafting plots but, at the same time we did not make up anything that directly related to peoples' experiences or the perceptions of allegations of abuse as told to us. All that we wrote came straight from the narratives we were given, sometimes using the words the people themselves had used. However, we did not include everything because some events and occurrences were so singular that it would have been impossible to entirely disguise and anonymise them.

**1.15** Having said this we should note that we share Mike Angrossino's view that 'a story doesn't have to be factual in order to be true' (1998: 34). In this project though, given the difficult, sensitive nature of the topic and also because of our desire to give readers insight in to the lived experience of someone acting *in loco parentis* being falsely accused, and to provoke change, we felt that crafting completely fictional stories would have been inappropriate. The story which follows connects our previous research interests; that concerned with touch and that concerned with false allegation. We have chosen to present this particular story here because it focuses on issues around teachers and touch. It also brings in the perceptions of parents as they relate to the role of the teacher *in loco parentis*. The other stories that we constructed (Sikes and Piper, 2010) privileged other topics, such as the impact that an allegation of abuse can have on the school as a community or upon life within the family of an accused teacher.

## Story<sup>[2]</sup>

**2.1** *I'm in my late 30s, not married, and for 15 years after qualifying taught at the same junior school. After dealing with the pupils in the same way I'd always done, some parents complained about me touching their children in class. I certainly touched my pupils when appropriate, but could think of no event out of the ordinary. Although most of the 'incidents' occurred when other adults were in the room, and all when the classroom was full of children, I was suspended. More than six months later I was charged with sexual assault, and I resigned. More than a year after that, I was found not guilty on some charges, but guilty on others. I spent three months in prison before the Appeal Court ruled my conviction unsafe. I was not guilty. However, some charges that were not considered at my trial, with no verdict either way, still stand, and keep me barred from work with children.*

**2.2** *I never had great ambition to climb the career ladder, but was a good classroom teacher and knew how to bring the best out of pupils. Generally I think children liked me; I could make the class laugh; and 'discipline' was never a problem. I never shouted, as speaking quietly makes pupils listen.*

**2.3** *I was the school's Maths coordinator, and in November 2004 I met with the Head and the Deputy to discuss maths issues. During this routine 30 minute meeting, the Head said some parents were concerned at the way I touched their children in class. The impression given was that the matter was not being treated as a serious complaint. I reassured him that I was always careful and appropriate. The discussion wasn't presented as a formal warning, and no written communication followed.*

**2.4** *I taught for the next term and a half with no incident or cause for concern. I didn't change the way I worked in class. I never touched children for the sake of it, but put a hand on a shoulder or gave a pat on the back when appropriate. If I sat on a child-sized chair next to a pupil to read with them or check their work, knees or hands might touch, but this never seemed a problem. My approach was to be normal and careful – and I was seldom the only adult, with classroom assistants, volunteers or student teachers frequently present. However, my nightmare began just before the 2005 Easter break. I was told by the Head that he had written complaints from parents. It was serious, and out of his hands. I was upset and amazed, had a sleepless night, and spent a miserable day teaching (alone with the class...) on the last day of term, and what turned out to be the last day of my teaching career.*

**2.5** *During Easter, the Head phoned to say I was suspended. When the police and social services were mentioned I knew things were serious, but had no idea my life was changed forever. From April to October 2005, when I was charged with indecent assault, there were meetings with the Head, LEA representatives, school governors, child protection social workers, and detectives. I stayed in bed a lot and just existed from day-to-day. I had a lawyer and support from my union, but it was obvious that these busy people had*

more to worry about than me.

**2.6** In one meeting after another, my biggest problem was to find out what I was being accused of. OK, some parents were claiming that I had touched their children in improper ways, but what did that mean? There was no suggestion of a major sexual assault, but I couldn't rebut vague claims. The police and social services were talking with parents, children and teachers, to find 'evidence' but, for me, getting information was almost impossible, I was forbidden to speak to my colleagues (and friends) at school. I spent hours trying to remember anything to explain what was happening.

**2.7** Today, what was going on is much clearer. The verbal complaints in November 2004 from two families were very vague. But I became a subject of gossip among some parents, who began to contact each other at home. For some, the involvement of any male working with young children makes them a suitable case for suspicion, and I was seen as an odd and dangerous character. Even if children didn't go home with stories of bad things I'd done, some parents kept asking them about me and if I'd touched them. In their minds I was a risk to their children. Some children picked up these concerns and, eager to please, started looking for things to report. In March 2005, three families wrote in, and the formal process began. It was hard for the police to identify specific charges but parents talked to each other, with detectives, and with their children, and the actual charges emerged from this process.

**2.8** The Head and other colleagues were interviewed and asked if they had seen any improper contact on my part. Since only the Head gave evidence in court I am confident that all said NO (and I later saw signed statements from colleagues to that effect). Senior staff could hardly say otherwise, as they'd left me alone with pupils right up to the last day. But the Head never defended me. He just followed child protection guidelines, risking as little personal or professional damage as possible.

**2.9** In October 2005, I was charged with 16 counts of sexual assault, to be tried at County Court. There was a 13 month wait. I wasn't looking forward to trial but the process and delay was a mental and emotional challenge. I spent many days and nights on my own, distressed and thinking about what was happening. How could I be accused of assault on children but not recall any events to justify the charges? I kept up a secure public face, but I was close to collapse and thought seriously about suicide.

**2.10** At first I told nobody, but after five or six lonely weeks began to tell my friends. Their supportive response was a big relief. Only the wife of one friend was at all hostile or awkward. She was probably worried as I had been an emergency babysitter for their kids. Telling my parents and my brother and his wife was very tough, but they supported me absolutely. But emotional support couldn't change what was happening, and when stories appeared in local papers, with my name and address, I was embarrassed and frightened. But to my relief they were not noticed – or not at first.

**2.11** When I was charged, I was summoned to a meeting with the Head, Governors, and LEA officers. My Union rep was told the purpose of the meeting was my dismissal. The Union and my lawyer protested. It was against natural justice and contrary to guidelines which say that legal proceedings should be completed before internal disciplinary process. The meeting couldn't be fair, as I couldn't defend myself without prejudicing the future court case, and I wasn't clear exactly what I was defending myself against. A decision to dismiss me would help the prosecution. I was in despair that they were determined to trash my career. I was a problem they wanted to get rid of quickly. My response was to resign, which was a mistake. I should have sat tight and made them sack me, but I was depressed and confused. From that September I was unemployed and living on benefits, waiting for trial.

**2.12** For most of the next year, we still didn't know what evidence would be presented by the prosecution. I spent a lot of time worrying. The trial began in November 2006 and lasted five weeks. I was just a spectator, as my defence team decided not to use me as a witness. I could only say I didn't do it, but might be pulled to pieces. The strategy was to query the evidence, and appeal to the commonsense of the jury.

**2.13** Prosecution evidence came from five girls' statements, their parents, the Head, and the chief detective. Only the girls could describe what I was supposed to have done, as nobody else had seen or experienced anything. The adults had only second hand information, and some of the children had only said anything after their parents asked them about me. From the interview transcripts it was obvious the police had worked hard to get statements from the pupils that something wrong and bad had happened. If a child said I touched their knee, the interviewer asked if I touched anywhere else. They'd ask the same question again – two or three times over the next few minutes – until the child agreed that I touched them. Any teacher knows that children of eight or nine try to give the answer an adult wants, and repeating questions told them there really was something they should be reporting. The questions were asked until the 'right' answer was given. Similarly, if the girl couldn't remember what she had been wearing (and in touching a knee, the difference between skirt and trousers mattered) then the interviewer led them towards skirt rather than trousers. If a girl said I patted her back, the interviewer tried to get her to describe my action as stroking. Some children rejected these attempts. Finally, as I was accused of touching the head, the hand, the knee, the back, the shoulder and neck, and only once in the region of 'the bottom', usually through clothing, it was a problem for the police to show this as sexual assault. As none of the children had ever shown fear or run from the room etc, the best that could be done was to get them to say that they had felt 'uncomfortable', which was what most of them ended up saying. I am sure they'd been primed to come out with such a helpful yet vague word by being asked frequently 'did you feel uncomfortable'.

**2.14** The court had the transcripts, and watched full videos of the interviews. These confirmed my impression from the transcripts. The children wanted to help but were at times confused. One showed irritation when she had to insist that 'touch' and 'back' did not mean 'stroke' and 'neck'. Another said that I'd once touched her 'bottom' and was asked to point to the place. In response she touched her lower back, on the waist line. The incidents reported were hard to interpret as sexual assault.

**2.15** My barrister questioned the detective about how evidence had been collected, the directive style of interviewing, and the judgements made. They had acted on the basis that I had been given a formal warning at the meeting in November 2004, which was untrue. The Head gave evidence for nearly two days. A lot of it was about how the process had started and what the parents had said. He was in a difficult position, having never expressed concern about my behaviour with children, and no other teacher had reported anything to the contrary. His response was to fall back on guidelines and procedures and to argue that he had done what was required of him at all times. He gave a false impression (from ignorance rather than malice), under reporting the 85% of the time I was with another adult in the classroom, when the incidents had supposed to have occurred.

**2.16** So, the jury learnt little more than that some girls said I'd touched them, on parts of their bodies not normally classed as erogenous, that they didn't like it and had told their parents, most only after they knew about the investigation. The events had taken place in normal classroom situations, with other pupils and often other adults in the room. I thought it stretched common sense to interpret this as an opportunity for sexual assault. But the jury obviously thought there was no smoke without fire and found me guilty on four charges (but not guilty on five others).

**2.17** I was sentenced to six months in prison, which meant 'only' three if I was well behaved. I was in a big prison, miles from home, a proven sex offender and high risk prisoner. I was terrified at first and couldn't sleep out of fear of what my cell mate might do, but settled down, read a lot, and got a kitchen job to shorten the days. I wasn't given a bad time and having been advised to be placed with abusers and paedophiles ended up feeling quite safe. But it was difficult to spend three months with men who admitted to murders (including wives and children), extreme violence and sexual crimes. I had no visits for three months, and didn't want loved ones to see me there, but telephoned friends, parents and my lawyers about an appeal. When released, after a night or two at my brother's house, I returned to my flat.

**2.18** The Appeal Court hearing three weeks after my release lasted only a few hours. There were three judges, no jury, the two legal teams, myself, and the court officials. The judges had seen the trial papers and our submission. Each lawyer made a statement, and the judges asked questions. The prosecutor just repeated the case from the trial, but my lawyer attacked the police procedures in collecting evidence and witnesses, the way that the children had been led in interviews, and the false information about the presence of other adults in my classroom. He questioned how my reported actions could reasonably be interpreted as sexual assault. He summed up by saying (and I saw two judges smile and nod) that a female teacher would never have been charged on such evidence, and that I was victimised for being a male teacher working with young children.

**2.19** The judges ruled that the guilty verdicts were unsafe, and that I was not guilty on the four counts on which I was sent to prison. I felt vindicated and grateful but this didn't undo the damage to my life, finances and career, or take away the disgrace or the frightened nights in prison. Also, the ruling did not apply to the charges not considered at my trial, which still stood in a state of limbo.

**2.20** I lived quietly for a few weeks, relieved to return to my flat and the nearby shops without any problem or embarrassment. My original guilty verdict and sentence had been fully covered in the local paper, but there were no reports of the 'not guilty' Appeal Court ruling. 'Good news' doesn't sell papers. Two months after the appeal, in the local benefits office I was suddenly the target of loud abuse from a woman I recognised from my street. In front of 25 or 30 people she pointed at me in a contemptuous way, shouting that I was a child abusing 'pedo' who should still be in prison. The office staff told the woman her behaviour was unacceptable; I said that what she had said wasn't true, and went home as fast as I could.

**2.21** I hoped this outburst would be a one-off event, but over the next few weeks my flat was daubed with spray paint ('pervert' etc) twice, and my front door hit by eggs and tomatoes. My car was damaged, and mis-spelt abuse painted on the windows. The police could be of little help beyond (thank goodness) saying there was no organised vigilante group. The incidents stopped after a few weeks, but it'll be a long time before I feel secure and relaxed in my flat or on the streets where I live.

**2.22** That brings my story up to date. I'm trying to remove the untried but damaging charges from my

record. These, and what happened, will always be disclosed by a CRB check if I apply for jobs involving children or other 'vulnerable groups'. I'm exploring channels for complaint or compensation, but it's a lonely and bleak position to be in.

**2.23** I'm not yet 40, an unemployed former teacher with serious stigma attached to me in spite of being not guilty. The process has cost me more than £100K so far. I'm prone to depression, with lower confidence and energy levels than previously. How can I rebuild a career or any income earning capacity? I enjoyed teaching, but that's all over for me. Without friends and family, it would be easy to spend the rest of my life as a victim.

**2.24** What happened wasn't just about me. There's such concern about child abuse that procedures are skewed in favour of their 'protection', with no protection for teachers. I was a victim of parents who were suspicious of me doing a 'woman's job', and just didn't like the look of me. They created a climate in which every action I took was worried about and reported back by their children. The children didn't lie. They said I touched their knee, hand or shoulder, and no doubt I did. But the process damaged them too! From somewhere, they were made 'aware' of things in a way that, at the time, I was not. This must be what people mean by children today being 'sexualised' these days, but they didn't get like that from being in my classroom, so perhaps their parents and the police should consider their own responsibility.

**2.25** I obviously want children to be protected, but teachers are in a hopeless position. Official campaigns for more men in primary schools are asking young men to gamble with their lives and careers. I loved teaching young children, but I'd never advise any male to risk doing the same.

## Concluding Discussion

**3.1** The notion that children are essentially innocent has contributed to the underpinning and guiding principle of UK (and other countries') child protection policies and legislation, to the effect that the starting point of any investigation is the tenet that children never lie about abuse. 'Children' is frequently taken to apply to all those under 18 and this generalisation can lead to difficulties since, while it is highly unlikely that a four year old could describe sexual intercourse in detail if they had not experienced or observed it, the idea that a 15 year old who is angry with one of their teachers is incapable of falsehood concerning sexual behaviour is far less plausible. Not only this, but the 'master narrative' of innocence and its concomitant premise that children never lie about sexual abuse, coupled with moral panic around paedophilia and child abuse, distorts and sexualises perceptions and understandings. It can lead to teachers being accused of sexual misconduct on the basis of actions and behaviours and comments which had quite another intention and motivation, as we believe to be the case in the story outlined above. It also, of course, lays a way open for malicious allegations to be made and believed. Acknowledging this is not, in any degree whatsoever, to suggest that children should not be protected but it does seem that in many societies, we have reached a situation where adults in general, and those who work *in loco parentis* with young people in particular, are frightened, and rightly so, of having their innocent actions misconstrued.

**3.2** Attempting to establish that wrong doing has occurred does not and should not require that one party be assumed to be more likely to be telling the truth than the other. In the past the benefit was on the side of those *in loco parentis*, now it is in favour of the youngster. Both of these extremes are damaging and both can lead to contravention of the basic human rights to safety and to justice, which should be enjoyed by both pupils and teachers. In summary, the necessary balance between the rights of the child on the one hand, and the rights and professional status of those *in loco parentis* on the other, has been tilted inappropriately. The result is that damage has been done to the personal and professional rights and security of teachers and other professionals working with children and young people, which can only result in higher turnover and lower quality in the workforce – as well as feed into the general mistrust of all adults in wider society.

**3.3** In conclusion we attempt to consider the question: 'How could things be done differently?' and offer some tentative suggestions<sup>[3]</sup>:

- Children and young people of different ages are not a homogenous category and the doctrinaire presumption that children never lie about abuse should be tempered by a contextual assessment of the relevant circumstances surrounding allegation against a professional, which would include the age and known characteristics of the child/young person.
- We do not agree that following an allegation anyone *in loco parentis* should immediately and automatically be suspended. Suspension is not and cannot be in these circumstances a neutral act: as Lord Justice Sedley has stated: 'suspension changes the status quo from work to no work, and it invariably casts a shadow over the employee's competence. Of course this does not mean that it cannot be done, but it is not a neutral act' (England and Wales Court of Appeal [Civil Division], 2007). We suggest, rather, a cooling down period of a day or so where teachers or others who know the child/young person well, are able to talk with them in a non threatening way. During this short period the professional could still be prevented from having contact with students (as is recommended in DfES, 2004a, but, in our experience, rarely employed) but, crucially, in a way that does not presuppose guilt. It seems very likely that a number of false allegations could be resolved at this early stage before everyone becomes entrenched in polarised positions, and where a child or young person who has lied and invested so much emotional and social capital in their narrative becomes unable to retract any false allegation.
- We believe the current system which prevents teachers and others from talking to their friends and colleagues to be inhumane. A situation can arise where a child who has lied is still able to talk to their friends and get their story 'right' but the adult becomes isolated and disempowered from the start. It is perhaps surprising that any professionals are found not guilty given this imbalance.
- We would wish teachers' anonymity to be preserved throughout, not just so as to preserve the anonymity of a child but because of the consequences of 'no smoke without fire' for subsequent career possibilities, and the vigilante type activity which such naming encourages. We appreciate full anonymity is impossible as children talk, as do parents, but a total ban on reporting could help to keep it local in the first instance (Facebook etc aside).
- Our research experiences suggest that, once an investigation is in play, the interests of natural justice are not well served by current procedures. Thus the insights of other professionals, parents and children closest to the situation are not investigated in an open-handed way, but rather the priority is to build a case to support a prosecution. In almost every case there is likely to be a sizable contrast between the investigatory resource of the prosecution and the defence, and of course the accused individual is forbidden to have any direct input. Given that verdicts in child care cases tend to be on the balance of probabilities, these realities again serve to make the task of proving innocence harder.
- We suggest the current judicial processes do not serve the best interests of either children or professionals acting *in loco parentis* in these situations. It may be that a process akin to that which occurs in a family court is more appropriate, where the process is less oppositional and those involved are trained and better able to deal with the complex issues. Only if the need for a full criminal prosecution is then confirmed should the full prosecutory process be applied.

To suggest that a more rounded and even handed investigative process would be beneficial in cases of sexual allegations against teachers (and other professionals in child care settings) should not be taken to indicate a 'soft' attitude towards those *in loco parentis*. Beyond the obvious principled issue of natural justice, and the more pragmatic one which can be summed up as 'why in current circumstances would a sane adult place themselves at risk by being a teacher?', is the fact that a more inclusive process would cut both ways. We may be concerned by stories of the type told to us, but we are just as concerned that actual cases of abuse are identified and dealt with. Current procedures can all too easily miss a pupil's story which needs to be read between the lines, and can also prove so intimidating that some real cases go nowhere as a more timid child clams up. Thus, a different type of process could have benefits for both teacher (as individuals and for the profession) and pupils, and also for justice itself. However, if an allegation is proved to be false, we think it is wrong that currently most young people experience no negative effects and are certainly not punished, which further emphasises the current imbalance in power relations between children and adults. The length of time the case often takes may be a contributory factor, but pupils should be made aware that there are consequences to their actions, and to allow false allegations to be exempt from normal sanctions (which in our experience is usual practice) sends a clear message that such behaviour is not considered serious and that it is easy to get away with it – it also implies doubt in regard to any 'not guilty' verdict. This is not the way to treat professionals who can be considered to have chosen a 'risky' vocation (Sikes & Piper, 2010).

**3.4** Our research focused on accusations of sexual misconduct. According to Investigation and Referral Support Co-ordinators data (DfES, 2004b), only around one third of allegations made against teachers fall into this category. In fact teachers are much more likely to be accused of physical abuse and when they are they face the same investigative procedures and the same potentially protracted period of uncertainty and suspicion. Hitting, restraining or in other ways physically hurting children who may themselves have been behaving in inappropriate or unacceptable ways does not seem to incur the same degree of public opprobrium as alleged sexual abuse: the legacy of 'spare the rod and spoil the child' is pervasive and tenacious. However, for a teacher accused of physical wrong doing which they claim they have not perpetrated, the consequences for and effects upon their careers and their well-being are no different than for those faced with sexual allegations. Finally, we suggest that policy makers and others would benefit from a consideration of a test case ruling made in relation to nurses early in 2009. Four nurses had been suspended from duty and placed on a list banning them from working during an enquiry following a complaint about their alleged mistreatment of vulnerable adults under the Protection of Vulnerable Adults (POVA) legislation. However the Law Lords ruled 'that nurses have the right to be heard before they can be suspended from work under the ... POVA scheme – which has been deemed to be in contravention of human rights' (Staines, 2009). It is expected that this test case will pave the way for at least another 50-100 such cases currently going through the European Court of Human Rights in Strasbourg. Words like 'unfair and unjust' and 'disproportionate in their adverse effects on the rights of care workers' were applied to the Care Standards provisions that are applied to nurses. We suggest that if nurses have had their human rights contravened by such treatment, then so too must have all those currently working *in loco*

*parentis* who have had a false allegation made against them. We also revisit our earlier point that we need a different sense of professionalism for those working *in loco parentis*, one based on trust and agency, to help counter the risk of incremental erosion of caring interaction between adults and children. We hope a consideration of these issues will encourage some change at policy and practice level.

## Notes

<sup>1</sup> Other versions of our methodology appear as Piper, H. and Sikes, P. (2010) 'All teachers are vulnerable, but especially gay teachers': using composite fictions to protect research participants in pupil teacher sex related research, *Qualitative Inquiry*, Vol. 16, No. 8, (permission granted for any overlap), and a longer version of our methodology can be found in chapter 4 of Sikes, P. and Piper, H. (2010).

<sup>2</sup> This is a shortened version of one of the stories which appears as chapter 6 in Sikes and Piper (2010) - we thank the publishers for permission to include the adapted material.

<sup>3</sup> We made these recommendations to the Children, Schools & Families Committee who acknowledged and published them in full (see CSF, 2009).

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