



# **Nottinghamshire School Disciplinary Procedure**

## **Part 2 – Managing safeguarding risks and allegations/concerns of harm and abuse made against all school staff**

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**HR Advice, Support and Training Service**

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# School Disciplinary Procedure – Part 2 – Managing safeguarding risks and allegations/concerns of harm and abuse made against all school staff

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# School Disciplinary Procedure – **School Disciplinary Procedure Part 2 Managing safeguarding risks and allegations/concerns of harm and abuse made against all school staff**

## **1. Introduction**

1.1 It is a statutory requirement for schools to have in place procedures for dealing with allegations of abuse against members of staff, volunteers and contractors which complies with the requirements of the current version of Keeping Children Safe in Education, HM Working together to Safeguard Children 2018 and the Local NSCP procedures. This second part to the **School Disciplinary Procedure** specifically sets out the additional procedures for managing allegations of harm / concerns raised against those working in or on behalf of schools in a paid or unpaid capacity. This includes teachers, supply teachers, other staff, volunteers, and contractors. It also covers county council officers in the course of their work, for example social workers or other centrally employed professional support staff. The policy complements and should be read in conjunction with the Disciplinary Procedure Part 1 – Managing the Conduct of School Staff.

1.2 The policy document has two parts covering the two levels of allegations / concerns:

### **Part A: Allegations that may meet the harms threshold**

### **Part B: Allegations / concerns that do not meet the harms threshold – referred to as “low level” concerns.**

Please note: Part B is replicated and forms part of the School Employee Code of Conduct -Appendix 1: Managing Low level concerns - concerns that do not meet the harm threshold

Note: The procedure followed must be consistent with the local NSCP procedures and should be read alongside the latest published version of the DfE statutory guidance [Keeping Children Safe in Education \(KCSiE\)](#). Part Four – Allegations made against / concerns raised in relation to teachers, including supply teachers, other staff, volunteers and contractors.

### **Part A: Allegations that may meet the harms threshold**

## **1.3 Duties as employer and duty of care to the employee**

1.3.1 As employer - The current version of KCSiE Part Four provides statutory guidance on managing cases of allegations that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children in their present position, or in any capacity with children in a school or college.

Part A of this guidance should be followed by the school where it is alleged that anyone working in the school or college that provides education for children under 18 years of age, including supply teachers and volunteers has acted in a way as set out below:

- a) behaved in a way that has harmed a child, or may have harmed a child; and/or
- b) possibly committed a criminal offence against or related to a child: and/or
- c) behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children; and/or

d) behaved or may have behaved in a way that indicates they may not be suitable to work with children. (This may include behaviour outside of the workplace that might make an individual unsuitable to work with children – known as “transferable risk”.)

The procedure applies to all teachers, including supply teachers, other staff, volunteers and contractors who are currently working in any school or college regardless of whether the school or college is where the alleged abuse took place. Allegations against a teacher who is no longer teaching should be referred to the police. Historic allegations of abuse should also be referred to the police.

Where the school or college is not the employer of an individual, they still have responsibility to ensure allegations are dealt with appropriately and that they liaise with relevant parties (this includes supply teachers and volunteers, see paragraphs on supply teachers below). It is essential that any allegation of abuse made against a teacher or other member of staff or volunteer in a school or college is dealt with very quickly, in a fair and consistent way that provides effective protection for the child and, at the same time supports the person who is the subject of the allegation.

- 1.3.2 Duty to the employee– Schools and colleges as employers have a duty of care to their employees. When an allegation is made, investigated or where an employee is suspended it is likely to be stressful for the employee and their family members. Under the employer’s duty of care, the school should make appropriate offers of welfare support which recognises the sensitivity of the situation. When the LADO has confirmed to the school that contact can be made with the subject of the allegation/concern, the school should very carefully consider the support available as set out in 4.3.
- 1.4 Where an allegation indicates a person may pose a risk of harm if they continue to work in regular or close contact with children in a Nottinghamshire school, or in any capacity, the case must be addressed through the locally agreed County Council procedures and processes, national procedures, current legislation and current statutory guidance as set out in this document and the current version of KCSIE . The definitions of child abuse are contained within the Nottinghamshire Safeguarding Children Partnership -(NSC-P) Procedures. This document is available on the School Portal and a copy should be made available to staff in every school. In applying these procedures, reference should also be made to the latest version of Working together to safeguard children 2018.
- 1.5 It is most important that all allegations of child abuse and harm against school staff should be reported immediately to the head teacher, or in the case where the allegation is against the head teacher, the Chair of Governors. Before taking any further action, the head teacher or Chair of Governors should seek **immediate** advice from the Local Authority Designated Officer (LADO) to agree a course of action on how the allegation(s) should be managed, taking into account the nature, content and context, including the involvement or potential involvement of children’s social care, the police and/or HR Service.
- 1.6 Supply Teachers/staff not directly employed by the school

Where supply member of staff is engaged to work in a school other than under a contract of employment with the school or County Council e.g. a contract for the provision of services, the school must immediately notify the employees’ direct (agency) employer of any alleged breach of discipline by their employee.

In these situations, it remains the responsibility of the school to ensure that allegations of harm are dealt with properly. Additionally, in no circumstances should a school decide to cease to use a supply teacher due to safeguarding concerns without finding out the facts and liaising with the LADO to determine and decide on a suitable outcome.

Head teachers/Governing bodies should discuss options with the agency to decide whether it is appropriate to suspend the supply teacher or redeploy the individual to another part of the school, or other school, whilst the school carry out their investigation. Agencies should be fully involved and co-operate in any enquiries made by the LADO, the police, children's social care and the school. KCSIE makes it clear that, although not the employer, the school is expected to take the lead in investigating and resolving these matters. This is because the agency will not have direct access to the children to be able to gather the facts when an allegation is made. Agency supply teachers, whilst not employed directly by the school are under the direction, supervision and control of the head teacher / governing body. Advice is available from the HR Service regarding such situations. (See also advice on suspension).

## 2 Legislation

- 2.1 The Children Act 1989 established the legislative framework for the protection of children and the Children Act 2004 strengthened the duty of organisations and individuals to safeguard and promote their wellbeing. Section 175 of the Education Act (2002) places specific duties on governing bodies, the Local Authority and Trust employers to carry out their functions in relation to the safeguarding and promoting the welfare of children. Keeping children safe in education, which is updated each year, provides specific guidance to maintained schools, academies and local authorities on their role in managing allegations to protect children from harm and or abuse.
- 2.2 All Local Authority maintained schools, academy schools and other educational establishments have a statutory duty to assist Local Authority Children's Social Care acting on behalf of children or conducting enquiries into allegations of harm/child abuse. All schools, irrespective of their governance arrangements, must act within the requirements of the local NSCP procedures when harm or abuse is suspected and take the appropriate action when allegations are made.
- 2.3 This procedure has been agreed locally by the recognised Trade Unions and the Nottinghamshire Safeguarding Children Partnership. **Governing bodies are, therefore, strongly advised to adopt this policy and procedures as set out in this document Part 2 of the School's Disciplinary Procedure.**
- 2.4 The School Staffing (England) Regulations 2009 confers the right of the County Council to send a representative to all proceedings of the governing body of a community or voluntary controlled school relating to the selection or dismissal of any teacher (including the head teacher and deputy) to offer advice. If the County Council decides to send a representative, they must be allowed to attend. Any advice offered as a result must be considered by the governing body (or those to whom the function has been delegated) when reaching a decision. This will be a HR Business Partner from the HR Service who will also advise the governing body/head teacher as appropriate. The same rights do not automatically apply in respect of maintained foundation, voluntary-aided and foundation special schools.

- 2.5 The guidelines have been drawn up in recognition of the particular sensitivity surrounding allegations of harm and abuse against school staff and the need for support to be given to the accused individual / employee.
- 2.6 The Sexual Offences Act 2003 established a criminal offence for the abuse of a position of trust. This affects teachers and others who are in a relationship of trust with under 18-year olds. Standards of conduct relating to schools staff are detailed in the Nottinghamshire School Employee Code of Conduct and the [statutory Teachers Standards](#).

## **2.7 Equalities and Equal Opportunities**

In adopting this Policy, the school and governing body recognises its legal responsibilities to staff under the Equality Act 2010 and this policy will ensure equality and fairness regardless of race, sex, sexual orientation, religion or belief, gender re-assignment, pregnancy and maternity, marriage and civil partnership, disability, age or trade union membership. The policy will be applied and all decisions will be taken in accordance with relevant equalities legislation, for Employment Relations Act 1999, the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 and the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002.

## **2.8 Advice, Support and Training**

It is the responsibility of the head teacher to ensure that all relevant senior leaders understand their role and have access to appropriate support, advice and training in the application of this policy and procedures. The headteacher should also ensure, in conjunction with the chair of Governors they appoint a senior Designated Safeguarding Lead (DSL) and deputies to manage the schools 'safeguarding and child protection arrangements' and the training co-ordinator, where appropriate, will ensure that in discharging their duties and responsibilities, all staff and governors have access to support, advice and training as appropriate. This includes Managing Allegations training for the Head teacher, other senior leaders, Executive Head teacher (if in place) and Chair of Governors / other governors as identified.

## **3. Guidance on managing the procedure**

### **Principles**

- 3.1 These guidelines are consistent with good employment practice, principles of natural justice and Part 4 of Keeping Children Safe in Education - Allegations made against / Concerns raised in relation to teachers and other staff, including supply teachers, volunteers, and contractors.
- 3.2 Because of their daily contact with children in a variety of situations, teachers and school support staff are particularly vulnerable to accusations of abuse. Staff working with children and young people are, therefore, expected to ensure their conduct and behaviour with children and young people is appropriate at all times and to take all reasonable steps to minimise the risk of their actions being construed as illegal or professionally inappropriate. The School Employee Code of Conduct sets out the expected behaviour standards of all staff and others working in the school.
- 3.3 It is recognised that the nature of relationships between school staff and pupils may lead to allegations being made against them by colleagues, pupils or parents and may include

other LA staff who visit the schools to carry out meetings and interviews with children through their statutory role. Allegations may be substantiated, malicious, false, unsubstantiated or unfounded. (See Paragraph 15)

- 3.4** Where a safeguarding concern or allegation is made, this must be reported to the head teacher immediately. In the case of a safeguarding concern or allegation against the head teacher, the matter should be reported to the Chair of Governors. Before taking any further action the head teacher or the Chair of Governors should seek immediate advice from the Local Authority Designated Officer (LADO) and must not disclose any information to the employee at this point.
- 3.5** The LADO will provide advice on how the safeguarding concern or allegation(s) should be managed, considering the nature, content and context, including the involvement of the police, children's social care and/or the HR Service. Seeking advice on the next actions at this stage is critical as it may be important for information not to be shared with the employee. The LADO will guide head teachers through these important initial stages liaising as required with the Police, children's social care and HR Service colleagues.
- 3.6** Every effort should be made by all parties to resolve allegations/cases of concern as quickly as possible consistent with the need for a fair and need for a thorough examination of the allegations.
- 3.7** The County Council is required to record and monitor the progress of all such cases and any subsequent investigations. Details of allegations that are found to be malicious should be removed from personal files, for further guidance please see paragraph 15.7. However, for all other allegations it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of action taken and decisions reached is kept on the employee file.
- 3.8** As stated earlier, all employers have a duty of care to their employees and schools should ensure that the employee subject of the safeguarding concerns/allegations is kept informed of the progress of the case and offered appropriate support. However, in some circumstances the police and / or social care may require information at the initial stages to be withheld if it could prejudice their enquiries.

## **4. Other Considerations**

### **4.1 Managing Communications / Confidentiality**

- 4.1.1** When safeguarding concerns or allegations are made against school employees, it is very important to manage and coordinate communication to the employee and other parties, when the LADO agrees this can happen. All communication should be discussed and agreed in advance with the LADO, children's social care, the police, the HR Service and the Corporate Director (or their representative) as appropriate to the management of the case.
- 4.1.2** Parents should be:
  - a) Formally told about the allegations or concern raised as soon as possible. The LADO and where children's social care and the police are involved will advise on what information can be disclosed.
  - b) Kept informed on the progress of the case in relation to their own child and entitled to be told in general terms the outcome relating to an internal disciplinary hearing, but remember to ensure no information is shared regarding the staff member, and

c) Made aware of the need to maintain confidentiality and unwanted publicity about the allegations made against a teacher in the school whilst investigations are ongoing as set out in 141F of the Education Act 2002 and 2010.

4.1.3 It is extremely important for all parties to maintain confidentiality while a safeguarding concern/allegation is being considered or is under investigation. It is therefore most important that all staff, governors, parents and carers are only informed at an appropriate point and made aware of the requirement for total confidentiality. The legal position is that if any party (including parents) reveal the name of the employee in speech, writing (including Facebook) it would be considered a breach of the reporting restriction in the Education Act 2010. Where a safeguarding concern/ allegation is reported to the LADO, the HR Service will assist the school in securing appropriate media support and in providing advice on information that should be included in letters to governors, staff and parents. Should the case attract **media enquiries** at any stage of the procedures, immediate advice should be sought from the Media Relations Team at County Hall before any information is given or a statement made. Any briefings to staff and governors should be agreed in advance with the HR Service and Media Relations Team to ensure the information provided is appropriate to the case and does not impact on police or other enquiries. The need to avoid breaches of confidentiality and media coverage should be emphasised at this point. Staff have the protection of the Human Rights Act 2000 in relation to their privacy regarding such allegations.

## 4.2 Suspension

4.2.1 Head Teachers / Chairs of Governing Body should always refer to Part 1 – Managing the Conduct of School Staff paragraphs 7.0 – 7.4 whenever suspension is being considered. The suspension of any employee from contact with children in the school, to facilitate an investigation shall be with full pay. The HR Service of Nottinghamshire County Council will provide advice on the suspension process, including the need to ensure the decision is confirmed in writing. Consideration of suspension should always be discussed in advance with the LADO and as part of the decision a risk assessment, with support from the LADO, should be undertaken to consider alternatives to suspension. The school's nominated HR Business Partner will provide advice on how suspension should be managed to ensure it is considered and co-ordinated with action taken by other agencies, including the police and social care. Suspension should not be the default position and should not be undertaken without good reason meaning that the person against whom the safeguarding concern/ allegation has been made should **not** be automatically suspended when an allegation is reported. In cases of doubt, the LADO will be able to seek further advice from the police and social care where they are involved. In some cases, immediate suspension may be appropriate. Alternatively, whilst clarity over the facts is sought in the initial stages, it may be appropriate to instruct an individual not to attend their place of work, so that a decision for the employee to return to work or decision regarding suspension can be taken over the next few days. Suspension remains an option to be considered at any stage of the investigation if the available evidence warrants such action to be taken. It may also be considered and recommended at any multi-agency strategy meetings called in relation to the case.

4.2.2 Suspension does not constitute disciplinary action nor imply any assumption of guilt and all options to avoid suspension should be considered by the school. The Head teacher / Chair of governors should maintain a written record setting out the rationale and justification to initiate or not to initiate suspension until the allegation is resolved. This process should include consideration of the alternatives to suspension and the reasons why they were / were not considered appropriate. The reason for the suspension should



be kept under review by the head teacher/chair of governors and the period of suspension will be no longer than necessary. Suspension is a decision taken by the employer, the governing body or the trust, but where a strategy discussion or initial assessment concludes that there should be enquiries by social care, or investigated by the police, the LADO should canvas police and social care colleagues for views about whether the accused member of staff should be suspended from contact with children. Police involvement does not make it mandatory to suspend and a decision by the school should be taken on a case by case basis having undertaken a risk assessment with the LADO about whether the person poses a risk of harm to children.

#### 4.2.3 Circumstances which would normally warrant suspension include:

- a) where there is cause to suspect that a child or children at the school is/are at risk of harm and no other action can be taken to minimise, mitigate or prevent this risk.
- b) where the concerns / allegations are so serious that they potentially constitute gross misconduct where there may be grounds for dismissal and there is sufficient evidence to suggest that the allegations are likely to be substantiated.
- c) where it is necessary to allow the conduct of the child protection enquiries/investigation to proceed unimpeded.
- d) where a police investigation is being undertaken and the police have indicated that a crime has likely been committed suspension would be appropriate.
- e) to protect the interests of the employee (this should be discussed with the employee prior to suspension).
- f) where the school is made aware that the Secretary of State has made an interim prohibition order, in respect of an individual who works with children, the school must take immediate steps to ensure the individual does not carry out work in contravention of the order. Pending the outcome of a TRA investigation, the employee must not carry out teaching work.

#### 4.2.4 Alternatives to suspension

The Head teacher / Chair of Governors should carefully consider the potential for permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be malicious, false, unsubstantiated or unfounded. In consultation with the HR Business partner and/ or risk assessment drawn up in consultation with the LADO, schools should carefully consider the following alternatives to suspension:

- a) redeployment within school so that the individual does not have direct contact with the child or children concerned;
- b) availability of another person to be present when the individual has contact with children;
- c) redeployment to alternative work within the school so the individual does not have unsupervised access to children;
- d) moving the child or children to other classes where they will not come into contact with the member of staff. *(This decision can only be made if it is in the best interest of the child or children concerned and takes account of their views and their parents are consulted. It must be clear this approach is not a punishment)*
- e) temporarily redeploy the member of staff to another role in another location

f) agreeing to a short period of paid or, if appropriate, unpaid leave

g) initially delaying a decision whilst further information is gathered.

4.2.5 Following discussion with the LADO, the police, children's social care and HR Service, through a strategy discussion, where it is considered that the threshold for suspension is met, the employee should be informed. The head teacher or Chair of Governors should clarify with the LADO exactly what information can be shared with the employee, if any. In serious cases it will not be possible to share any detail of the safeguarding concerns/allegation at all at this initial stage. If, as a result of a safeguarding concern/allegation or a strategy meeting, the police decide to conduct a criminal investigation relating to the case, the school must not investigate further or arrange a meeting with the employee to consider suspension without prior consultation with the LADO who will liaise with the police officer in charge of the case.

The Head teacher, or chair of governors (as appropriate) should clarify/ inform the LADO the arrangements that have been put in place to support the staff member who has allegations made against them, as set out in 4.3. The head teacher / Chair of Governors (where the allegation is against the Head teacher) has a responsibility for the wellbeing of the staff member during the managing allegations process. The head teacher / Chair of Governors should seek advice on this responsibility from the HR Business Partner involved.

4.2.6 Where there is no police involvement, or it has been agreed with the LADO (in liaison with other agencies as required) that an initial interview can take place, it should be arranged in line with the following procedures:

- a) After discussion with the LADO, the head teacher is strongly advised to seek advice from their named HR Business Partner before arranging and then conducting this meeting.
- b) Where a recommendation to suspend is a possible outcome of the interview the employee should be advised by the head teacher to seek the advice and assistance of their trade union or colleague. Wherever possible, attempts should be made to inform the appropriate trade union of the need for a representative to attend the meeting to act as a support for their member at this meeting.
- c) At the outset of the interview the employee should be informed that a safeguarding concern/allegation has been made and that the circumstances are such that suspension might occur. The employee, where accompanied, should be offered the opportunity of a meeting with the representative or colleague before the interview. It should be made clear, however, that the interview is not a formal disciplinary hearing but is for the purpose of putting forward a serious matter and seeking an initial response from the employee prior to any consideration of a recommendation to suspend pending further investigation.
- d) The employee should only be given information as agreed can be shared at this stage with the LADO / Police, children's social care or HR Business Partner, including reasons for any proposed suspension, as set out in this policy. The information made available to the person is likely to be very limited, so the meeting is not, an opportunity to examine the evidence, but an opportunity for the employee to make representations concerning any possible suspension. An adjournment should be offered to enable the employee and their representative to meet in privacy to consider their response.

- e) The head teacher / chair of governors should consider the employee's response and the options available. They should undertake a risk assessment taking into account all reasonable steps practical in the situation to avoid suspension as set out in 4.2.4. If, as a result of the interview or following a decision of a strategy meeting that suspension is required, the head teacher / Chair of Governors should decide whether suspension is necessary while the appropriate further enquiries about the safeguarding concern/allegation are pursued.
- f) Decision to suspend - the employee should be advised of the decision accordingly in a sensitive and supportive way.
- g) The employee should be asked to return school possessions, including keys, phones, other mobile devices and other school-based documents / information. The school should also take steps to restrict access to all school ICT systems/ emails and inform the employee accordingly.
- h) Consider and discuss the support arrangements with the employee (paragraph 4.3)
- i) The employee should also be advised not to contact parents and pupils or discuss the case with members of staff, the governing body and the wider school community.
- j) The school should not prevent social contact with work colleagues and friends when staff are suspended unless there is evidence to suggest this will prejudice the gathering of evidence. The employee must be instructed not to discuss the allegation or concerns raised with other staff and confidentiality regarding the allegations maintained.
- k) The school should ensure that there are appropriate arrangements in place for the employee to get home safely.
- l) Inform the employee that the decision will be confirmed in writing. There is no right of appeal against the decision to suspend.
- m) Decision not to suspend – see paragraph 4.6

The school understands that children's social care and / or the police may give their view on suspension to the LADO, but they cannot require the school to suspend a member of staff or volunteer, although proper weight should be given to those views.

#### **.4.3 Support for Employee**

The welfare of the child is paramount, but the head teacher / chair of governors must also take care to acknowledge the effect the safeguarding concern/allegation any investigation and the possibility of suspension may have on the employee. This Paragraph sets out the school's duty of care and actions to consider throughout the management of a case and further bespoke advice on individual cases is available from the HR Service. The school should consider the following:

- a) Manage and minimise the stress caused by the allegation through provision of support measures agreed with the employee;

- b) Inform the individual as soon as possible, explaining the likely course of action, guided in what can be said to the individual by the LADO, children's social care and the police
- c) Advise the individual to contact their trade union representative, or a colleague for additional support
- d) Appoint a named person within the school with responsibility to arrange support. This will usually be the head teacher / Chair of Governors (where the head teacher is subject to allegations/concerns)
- e) Appoint a named person within the school to keep the person informed about progress of the case. This will normally be the head teacher or the Chair of Governors (where the head teacher is subject to allegations/concerns) or the named HR Business Partner acting on the school's behalf. Updated information provided at any time must be agreed in advance with LADO and other agencies involved.
- f) Provide access to counselling and occupational health service via the HR Service.
- g) Consider any additional health and or wellbeing support (especially if injured in any altercation).

#### **4.4 Action following a decision to suspend**

Following a decision to suspend an employee, the head teacher should inform the chair of governors as soon as possible. Further advice on managing the suspension in line with the guidance below can be obtained from the school's named HR Business Partner.

The head teacher should then take the following actions:

- a) The person should not be left without any support and the school should decide then action the support arrangements as set out in paragraph 4.3 for the individual
- b) Send written confirmation in a suspension letter to the employee giving reasons in as much detail as appropriate for the suspension as agreed with LADO and HR Business Partner. The letter should be sent as soon as possible and normally the next working day. An employee has no right of appeal against the decision to suspend. The letter should also include the name and contact details of a person in school for support and where appropriate the name of a HR Business Partner as an information contact. The head teacher / chair of governors must decide who will be a point of contact to provide information regarding the progress of the case and any immediate support arrangements put in place. (see sample letter **Appendix 2** – Notification of Suspension in the Disciplinary Procedure Part 1 – Managing the Conduct of School Staff)
- c) The person identified as the point of contact for the individual should ensure for the person and their representative or support colleague, to be contacted regularly with information on progress and developments on the case (as agreed by the school with the LADO / HR Business Partner) either via the head teacher, the Chair of Governors (in the case of a head teacher) or the named HR Business Partner acting on the schools behalf. This will be very important in the early stages of an investigation.

- d) The employee should also be reminded / advised not to contact parents and pupils or discuss the case with members of staff, the governing body and the wider school community.
- e) Not prevent social contact with work colleagues and friends when staff are suspended unless there is evidence to suggest this will prejudice the gathering of evidence. The employee must be instructed not to discuss the allegation or concerns raised with other staff and confidentiality regarding the allegations maintained.
- f) In conjunction with advice from the LADO, children's social care and the police, who will advise on what information can be shared, parents or carers of the child or children should be told about the allegations as soon as possible. Parents / carers should be kept informed of progress of the case in relation to their own child. No information can be shared regarding the member of staff. Parents / carers should be made aware of the need to maintain confidentiality and unwanted publicity about any allegation or concern against a teacher at the school whilst the investigation is "in progress" as set out in section 14F of the Education Act 2002 and 2010.
- g) Support will need to be considered for the child or children making the allegations and their parents. Consideration will also need to be given as to what support may be needed for others at the school, both staff and parents, according to the circumstances of the case. Advice may be obtained from the LADO, Children's Social Care as appropriate.
- h) Consideration will also need to be given as to what information should be conveyed to school staff, governors, parents and pupils. The HR Service will support the school with this communication in conjunction with the relevant Media Relations Team, LADO and where applicable, the Police. It is most important that information at this stage is co-ordinated effectively. In the case of the suspension of the headteacher, the HR Service and where appropriate, the Education Improvement Service, will fully support the chair of governors to undertake these communication actions.
- i) Where agreed with the LADO, arrangements should be made for the appropriate enquiries/investigations to be conducted by the school as speedily as possible consistent with establishing and gathering the full facts following agreement with any other agencies / partners involved in the case, Social Care and the Police.
- j) Work closely with the schools named HR Business Partner and take steps to review the continuation of the suspension and progress of the case during the investigation.
- k) Where the reason for suspension is related to concerns about an employee who has harmed, or who poses a risk of harm, to a child or vulnerable adult the school must consider a referral to DBS as soon as possible, and ordinarily on conclusion of an investigation.
- l) Where the reason for the concern is related to concerns about an employee who has harmed, or who poses a risk of **harm**, to a child or vulnerable adult and a decision is taken not to suspend but to redeploy the person to another area of work

that is not regulated activity, the legal duty to refer the case to the DBS as soon as possible, or ordinarily on conclusion of an investigation, still exists and further information is available on the Disclosure and Barring Service website which explains the harm test on GOV.UK. For further information see paragraph 15.4 for referral to the DBS.

#### **4.5 Police Investigations**

Where the police are involved in ongoing investigations it may not be possible for the school to conduct its own internal investigations straightaway. The head teacher should seek advice from the LADO / children's social care / HR Business Partner (as appropriate) in these circumstances. In general, a police investigation will take precedence and the school investigation will be held in abeyance pending Police / court actions.

Where there has been police involvement, any statements made to the police in the course of their investigation by the employee or other potential witnesses to an incident are not automatically available to the school or employer. If it is necessary to obtain statements from the Police investigation to support an internal disciplinary process, a formal request to the Police is required. The individual will need to give explicit written consent to the Police. There is also a cost, payable by the school to the Police.

#### **4.6 Action following a decision not to suspend**

The head teacher / Chair of Governors should discuss and agree next steps with the LADO and the school named HR Business Partner.

If the head teacher has not already met with the individual, the head teacher should write to the employee with arrangements of a meeting to explain to the employee concerned the circumstances which led to consideration of suspension and further explain any follow-up action. The employee may be accompanied, at this meeting, by their trade union representative or colleague. According to the circumstances of the case, it remains important for the school to undertake its duty of care during a subsequent internal disciplinary investigation and ensure that appropriate assistance or advice is offered to the employee, including counselling or other relevant welfare support.

Consider any other arrangements which should be put in place if the staff member is not suspended but is redeployed to a different location, other office or school site, whilst further investigations take place. Suspension should not be the only course of action but where no other alternative can be agreed to be suitable in the specific circumstances. If an employee has not been suspended but the head teacher nonetheless has concerns about aspects of their conduct, a full internal investigation should be undertaken within the remit of the school disciplinary procedures before deciding about further action.

If further evidence emerges during an internal disciplinary investigation that raises any further concern or allegation of harm this must immediately be referred to the LADO or police as appropriate. Suspension remains an option to be considered at any stage of the investigation if further evidence warrants such action to be taken.

## **5. Roles and responsibilities**

### **5.1 All school employees / governors**

The governing body should ensure that they are fully aware of their responsibilities under KCSIE and employment law in managing safeguarding risks and allegations of abuse and harm. All school staff and governors have a responsibility to respond in accordance with the school's policy and statutory guidance to any allegations about members of staff which could constitute abuse or harm of a child or young person. Such allegations may be related to physical and / or sexual abuse; they may be at a level which constitutes inappropriate behavior or unprofessional conduct; they may meet the threshold of a criminal offence. In particular, head teachers, designated safeguarding lead and deputy dsl, chairs of governors and nominated governors are advised to ensure they are familiar with their responsibilities as outlined in the latest guidance contained within their own school child protection procedures. Reference should be made to the latest version of Keeping Children Safe in Education Part 4: Allegations made against/ Concerns raised in relation to teachers, including supply teachers, other staff, volunteers and contractors and procedures provided by Nottinghamshire Safeguarding Children Partnership.

### **5.2 Designated Safeguarding Lead (DSL)**

All schools must ensure that a senior member of the school leadership team is given the specific responsibility for co-ordinating action in the school and for liaising with Children's Social Care and other agencies over suspected child abuse and harm and safeguarding risks and threats. The role must also be written into their job description. In many schools the DSL will be the Headteacher, but this may not be the case in a large or secondary school or academy. Dependent on the size of the school and whether it is split site or level of active child protection and safeguarding concerns will determine whether a further deputy DSL or deputy/s DSL's should be appointed. A deputy DSL should be trained to the same level as the senior DSL and should be available during the school day as in case the Senior DSL lead. The critical point is to ensure that there is cover when one or the other is not in school or indisposed when an incident arises. Where this role is delegated to another senior member of staff, the head teacher should be kept informed of any allegations made and the actions taken. The role of the designated safeguarding lead is outlined in full in the current version of Keeping Children Safe in Education 2020 Annex C.

### **5.3 Nominated Governor for Child Protection and Safeguarding**

This nominated governor is responsible for liaising with the head teacher/designated person at the school over matters regarding child protection issues which are consistent with local NSCB procedures. This involves:-

- a) Ensuring, in liaison with the head teacher/designated safeguarding lead, that the school has a child protection policy and procedures in place which are consistent with NSCP procedures and other statutory requirements.
- b) Ensuring that an annual item is placed on the autumn governors' agenda to report on changes to child protection policy/procedures, sign off the school's annual child protection policy, training undertaken by the designated safeguarding lead(s), other staff and governors, the termly report about the number of incidents/cases referred to Children's Social Care (without details or names) and the place of child protection issues in the school curriculum.

- c) Liaison (with due regard to issues of confidentiality) with the head teacher/designated safeguarding lead re allegations of child abuse and or harm.
- d) The Chair of Governors has responsibility for the oversight of procedures relating to liaison with the Children, Families and Cultural Services Department, Children's Social Care and the Police in relation to any allegations of child abuse made against the head teacher, including possible attendance at strategy group meetings. The nominated child protection and safeguarding governor will be required to work closely with local authority contacts (HR Service and LADO) to facilitate enquiries into any complaint against the head teacher and ensure that arrangements are put in place so that allegations are appropriately managed and investigated. This may include contribution to strategy discussions and attendance at strategy meetings and leading on ensuring appropriate communications are in place to staff, the governing body and the school community.
- e) Undertake the appropriate training. The designated governor should undertake the whole school safeguarding training at least every 3 years, or attend Governor Safeguarding Training in line with NSCP Guidance and complete the local managing allegations training.
- f) Ensure the schools 'safeguarding arrangements' are compliant with advice from the local authority and statutory guidance and quality assure them through the annually updated NCC and NSCP Safeguarding in Education Annual Audit toolkit, made available to all schools, and reflected in the current schools Child Protection Policy. Each year these documents should be signed off and written into the minutes of the first autumn term full governing body meeting.

#### **5.4 Local Authority Designated Officer (LADO)**

The LADO has responsibility for co-ordinating policy and action on child protection for all schools, irrespective of their governance arrangements. This is a wide-reaching role which covers all maintained, academy, trust, foundation and church schools and alternative education providers within Nottinghamshire. This officer is recognised by the NSCP and will be involved in maintaining local procedures, including arrangements for Designated Safeguarding Leads and will be the local authority point of contact with Children's Social Care and other agencies. The school must contact the LADO immediately (as a minimum within 24 hours) for advice and guidance following an allegation of abuse / harm and before taking any action against or sharing any information with the employee. (See **Annex 1** – Advice and guidance for contact points)

The school must contact the LADO immediately (as a minimum within 24 hours) for advice and guidance following an allegation of abuse / harm and before taking any action against or sharing any information with the employee. (See **Annex 1** – Advice and guidance for contact points). The SCIEO plays a significant role in ensuring that schools are updated on an annual basis so they understand their statutory responsibilities.

#### **5.5 Nottinghamshire County Council – HR Service**

The school nominated HR Business Partner should be contacted after discussing the case with the LADO for advice and guidance about the personnel implications of such an allegation. The HR Contact list can be found on the Schools' portal. (See **Annex 1** – Advice and guidance for contact points)



## **5.6 Mandatory duty to report known cases of female genital mutilation (FGM)**

Section 5B of the Female Genital Mutilation Act 2003 introduced a mandatory reporting duty on all health, social care professionals and teachers to report known cases of FGM in under 18's to the police. "Known" cases are those where in the course of professional duties teachers are either informed by a girl under the age of 18 or they observe physical signs which appear to show an act of FGM has been carried out. Any breach in duty to report must be considered by the school in accordance with its disciplinary procedure. Further statutory guidance for FGM can be found in KCSIE.

## **5.7 School Employee Code of Conduct**

School staff should have access to information, training, and support on local (Nottinghamshire Safeguarding Children Partnership child protection procedures and always comply with the school safer working practices and School Employee Code of Conduct. All staff should be made aware of the Schools Employee Code of Conduct and the requirements placed on them to work safely and keep children safe before working with or teaching children. All school staff should be conversant with the schools 'safeguarding arrangements' and child protection policy. All staff should know how to report concerns and how to seek help and support through receiving regular and at least annual (as a minimum) safeguarding updates and training.

Part B: Allegations/concerns that do not meet the harms threshold- referred to as "low-level" concerns , set out the appropriate action to be taken in these circumstances. This part of the policy is also incorporated into the School Employee Code of Conduct as Appendix 1 and sets out the standard of behaviour of all staff in the school.

This [Code](#) should be provided to all new employees at induction with reference to Appendix 1 at whole school refresher training events.

## **6. Initial response to an allegation**

- 6.1 Any member of staff who witnesses abusive or harmful behaviour by another employee or receives such a complaint from a parent, child, governor, colleague or other person has a duty to respond appropriately and in line with this policy and other relevant school procedures, including the statutory guidance Keeping Children Safe in Education 2020 Part Four.
- 6.2 A child reporting personally or electronically to a member of staff that they have been abused by another adult or member of school staff must be listened to. It is often difficult for an employee to believe that a colleague may have behaved in the manner alleged. They must therefore keep an open mind regarding the circumstances of the allegation.
- 6.3 Where the school identifies a child has been harmed, that there may be an immediate risk of harm or if the situation is an emergency, they should follow the local Nottinghamshire procedures and contact children's social care and as appropriate the police immediately. The school should (paragraph 6.4) look after the welfare of the child and then (paragraph 7.0) Initial assessment - decide how the matter should be investigated further

## 6.4 Looking after the welfare of the child

The designated safeguarding lead (DSL) will know what actions to take in line with the local child protection procedures. It is essential that the following guidance is taken into account when dealing with such an allegation, particularly if made directly by a child:

- The child should be listened to but not interviewed or asked to repeat their account.
- Avoid asking direct questions, particularly leading questions wherever possible.
- The child should not be interrupted when recalling significant events.
- All information should be noted carefully. As far as possible details such as timing, setting, who was present and what was said should be recorded in the child's own words and be as near verbatim as possible.
- The listener must take care not to make assumptions about what the child is saying or to make interpretations.
- The adult must, on no account, offer suggestions or alternative explanations for the child's concerns.
- A written record of the allegations should be signed and dated by the person who received them as soon as possible.
- All subsequent actions must be recorded in writing.

6.5 No promises of **confidentiality** should be made to pupils who make allegations. Instead, the child should be encouraged to agree that the matter must be taken further in the knowledge of what this may involve. Whilst acknowledging the need to create an environment conducive to speaking freely, it should be made clear to the child by the member of staff that in all cases they have a duty to pass on what the child has told them to ensure the protection of child(ren). The child should be assured that the matter will only be disclosed to those people who need to know about it. Support may need to be offered by the school or another appropriate agency. Consideration must be given at this point as to whether the allegation may be malicious. If it is obvious that the incident could not have taken place, or it is reasonable to suspect that the allegation is malicious then further advice should be sought from the LADO before making any decisions.

6.6 A written dated **record of the allegations** disclosed by the pupil must be made as soon as possible, but certainly within 24 hours. If, however, a decision is made in conjunction with LADO to take no further action, a written record of this should be made including the reason for the decision.

6.7 The LADO will liaise with the HR Service as appropriate and provide advice to the head teacher or nominated governor about what information should be recorded in writing. The head teacher or nominated governor must obtain details of the allegation in writing, signed and dated by the person who receives the allegation(not from the child who made or is the subject of the allegation) and countersigned by the head teacher or nominated governor. Any information about times, dates, locations and names of potential witnesses should be recorded.

## 7. Initial assessment – in relation to the adult

7.1 At this stage the head teacher (or nominated governor) must urgently consider whether there is sufficient substance in the safeguarding concern/allegation (anonymous or otherwise) to warrant further action. To assist in making this decision, therefore, the head teacher - or in the case of an allegation against the head teacher, the nominated governor - must not attempt to investigate the safeguarding concern/allegation, interview pupils or discuss the safeguarding concern/allegation with the member of staff. Instead, the head

teacher (or nominated governor) must immediately inform the LADO and discuss the nature, content and context of the allegations or concern to agree a course of action as a result of the initial assessment. The head teacher / Chair of Governors must decide where to seek immediate advice in accordance with local procedures and whether contact is needed with the local Children's Social Care MASH (MASH where a case or child is not already open to Social Care). A joint agency strategy discussion between the school, the LADO, Social Care, HR Business Partner and Police may be instigated at this stage to determine the appropriate action to be taken.

7.2 When dealing with allegations or concerns the discussion with the LADO will ensure that the school:

- a) Are supported to apply common sense and judgement. The LADO will advise on any basic enquiries which will include determining if there is any foundation to the allegation, whilst being careful not to jeopardise any future police investigation. The initial evaluation with the LADO should take into account that teachers and other school staff are entitled to use reasonable force to control or restrain children in certain circumstances;
- b) Deal with allegations quickly fairly and consistently in line with the appropriate procedures;
- c) Provide effective protection to the child and support to the person subject to the allegation.

Even in cases where it does not appear that the child has suffered significant harm it is important to act quickly and confidentially. It is also important to recognise the distinction between establishing whether a safeguarding concern/allegation warrants further investigation and deciding whether a safeguarding concern/allegation is well founded. However, only in those cases where the allegation is trivial or demonstrably false, further investigations **are not** warranted.

## **8. Safeguarding Concerns and Allegations of harm that do not warrant referral**

8.1 In some circumstances the safeguarding concerns/allegations of harm will not warrant referral under NSCP procedures. For example:

- Where the safeguarding concern/allegation clearly relate to the use of reasonable force to restrain a pupil in accordance with current guidance and legislation (including new guidance re powers to discipline pupils issued in Behaviour and Discipline in Schools, DfE guidance January 2016), it will be appropriate for the Head Teacher to decide whether to deal with the matter at school level. However, an allegation of assault beyond the use of reasonable force must be dealt with in accordance with the NSCP procedures described above.
- Where an investigation by the police or children's social care is not necessary, or, the strategy discussion or initial assessment decides this is the case, the LADO will discuss the next steps with the head teacher.
- Where, following initial consideration by both the head teacher and the LADO it is absolutely clear that the safeguarding concern/allegation is demonstrably false or malicious i.e. the immediate circumstances of the concern/allegation show that it would not be possible for this to be true, the LADO will confirm the matter can be dealt with at school level. However, there may be other issues relating to the child's needs which

should be addressed in consultation with Children's Social Care or other appropriate agencies. Note: All malicious allegations should be concluded within 5 working days.

- The safeguarding concern/allegation may represent inappropriate behaviour or poor practice by a member of staff and the school should consider how this should be managed which may include consideration under the school's Disciplinary Procedure Part 1 – Managing the Conduct of School Staff
- In any case above the school should record in writing the details of the safeguarding concern/allegation and circumstances/justification ~~reasons~~ for proposed action and or no action and agree what information the head teacher / Chair of Governors should put in writing to the person concerned. Where there is any doubt on what should be recorded, head teachers should seek advice from the LADO.

## 9. Allegations that warrant further investigation and/or referral

- 9.1 Where the initial assessment by the LADO and the head teacher (or, where the safeguarding concern/allegation is against the head teacher, the nominated governor) concludes **that the safeguarding concern/allegation warrants investigation**, there will be either:
- a referral to one or more of the agencies with statutory responsibilities to make enquiries; or
  - a decision that the school undertakes an investigation under the school's disciplinary procedures where the school and LADO are wholly satisfied that the child or children is/are not at risk of harm or that a potential crime has not been committed.

## 10. Outcomes of Initial Assessment

- 10.1 Following the initial assessment, a decision must be taken in conjunction with the LADO regarding appropriate courses of action. There are four possible outcomes:-
- a) Where the pupil has suffered, is suffering or is **at risk of harm**, or in need of protection, there should be an immediate referral to children's social care under the local child protection procedures. (See section below – Referral to children's social care, MASH and /or Police).
  - b) If a child makes an allegation that is considered to be a **potential criminal act** within the scope of the child protection legislation or indicates that they have suffered, are suffering or are likely to suffer significant harm, the head teacher (or designated governor) must refer the matter immediately in line with the local child protection procedures. This should either be via direct contact with police or children's social care officers, or the LADO or their representative. If there is any doubt about this, advice must be sought immediately from the LADO.
  - c) Where it is considered that the allegation was prompted by **inappropriate, unprofessional behaviour or bad practice** by the employee which does not fall into either of the above categories, it should be dealt with under the school's disciplinary procedures (see School Disciplinary Procedures – Part 1 Conduct and Appendices of this guidance). In such cases the DFE recommends that, if a disciplinary hearing is required and can be held without further investigation, it should be held, where possible, within 15 working days. However, this timescale is unlikely to be adhered to as the arrangements will also need to comply with the timescales set out in the

school's disciplinary procedures to allow for an appropriate and reasonable investigation to be conducted as set out in the Schools Disciplinary Procedure Part 1 and paragraph 13 **Internal Investigations** in this document.

- d) Where it has been demonstrated that **the safeguarding concern/allegation is without foundation** consideration must be given as to what other appropriate action needs to be taken. (See Paragraph 15 –Outcome of Internal Investigation). In such cases, the DFE recommends that the head teacher should take any further appropriate action, where possible, within 3 working days.
- e) Allegations that do not meet the harms threshold “Lower-level” concerns should be managed in accordance with Part B of this procedure.

## **11. Referral to Children's Social Care/MASH and / or Police**

- 11.1 If the initial assessment concludes that a child may have suffered or is at risk of significant harm and/or in need of protection, there should be an immediate referral to the Children's Social Care Area Office in accordance with the agreed procedures established by the NSCB.
- 11.2 Where safeguarding concerns/allegations of abuse are referred to Children's Social Care MASH or the Police, subsequent action by all the agencies involved will be in accordance with the local child protection procedures. This means that any preliminary action to establish the nature of the safeguarding concern/allegation and to assist consideration of whether it should be investigated should be undertaken in such a way that it does not prejudice any subsequent action. Schools must contact the LADO for advice immediately and if not available either the duty LADO or the MASH (Multi Agency Safeguarding Hub – see Contacts Annex 1). There must then be no interference with evidence and, in particular, no staff or governors should attempt to interview children about these matters without first seeking advice or dispose of any materials linked to the incident or allegation, this should be preserved should it be required as part of any ongoing investigation. The sections Initial Response to an Allegation and Conducting the Investigation give specific guidance on listening to and interviewing children in these circumstances.

## **12. Formal Investigations**

- 12.1 There are three possible types of investigation which may result from such allegations:
  - a) an enquiry conducted by Children's Social Care under local NSCP procedures.
  - b) related police investigations into possible criminal offences.
  - c) an internal investigation under the schools agreed disciplinary procedures.
- 12.2 Any investigation by the police or child protection agencies will normally take priority over an internal disciplinary investigation by the school. Therefore, any internal investigations will normally be held in abeyance pending either the completion of the external enquiries or an agreement by all parties that the school can proceed with a disciplinary investigation.
- 12.3 Before a decision is taken about whether any enquiries will be undertaken by the police and/or Children's Social Care, **a multi-agency strategy meeting** will be held in accordance with the NSCP Procedures. This will usually involve the head teacher (or nominated governor where the allegation is against the head teacher), the LADO (or their representative), as well as officers from social care, HR Service and the Police. Other

agencies such as health may also be represented as appropriate to the case. The strategy meeting will be convened by Children's Social Care in line with Section 47 of the Children Act 1989. HM Working Together to safeguard Children 2018, the current version of DfE KCSiE Part Four and the NSCP local policy, practice and procedures for the management of allegations against adults who harm and abuse children

12.4 The purpose of the strategy meeting is to share all available information about the allegation and the alleged victim(s) and perpetrator(s) and to plan what action, if any, needs to be taken and by whom. In particular the meeting will consider:

- whether an enquiry or investigation needs to be conducted,
- the type of enquiries or investigation to be conducted and by whom
- how such an enquiry or investigation will be conducted and the timeline
- whether any other children are likely to have been at risk in the light of the allegation
- the implications for the employee and the child involved
- whether it may be necessary to review any previous allegations made against the member of staff
- any appropriate action to be taken by the school in relation to the employee e.g. whether suspension (see section below) is necessary, levels of information and support to be offered by the employer, whether any internal investigation should be conducted

12.4.1 In some cases the police will want to interview the member of staff against whom the safeguarding, child protection allegation of harm / concern is made before the head teacher / designated person (or nominated governor in cases where allegations involve the head teacher) makes any contact with the employee. The police may need to act independently, particularly where the alleged offence does not arise from the individual's professional duties in the school. Police Officers should be given every assistance with their enquiries and, in the interest of the individual and the school, confidentiality must be maintained. Where the police have confirmed it is appropriate to do so, the employee concerned should be advised and given every opportunity to contact their recognised trade union who will arrange for the appropriate support to be available, or from a colleague.

12.4.2 When the police are involved, parents will be contacted and formal interviews with children should not normally take place on school premises but, where necessary, provision should be made for these to be held in the presence of a member of school staff of the child's own choosing, if appropriate. It would be expected that appointments should be made for such interviews to take place at reasonable times.

### **13. Internal Investigations**

13.1 The police or the joint agency strategy discussion may decide that the investigation would be hindered by an approach to other parties at an early stage. In such cases, the head teacher, in consultation with the LADO, must ensure there is no objection by the police before contacting any of the parties involved. Subject to there being no objection, the head teacher (or nominated governor in cases involving allegations against the head teacher) should:-

- a) inform the child, children or parent making the allegation about the referral and explain the likely course of action.
- b) ensure that the parents of the child who is the alleged victim have been informed of the facts (as agreed with LADO) of the allegation and of the likely course of action.

- c) inform the member of staff against whom the allegation is made, explain the likely course of action and strongly advise them that they should urgently contact their recognised trade union. (See Paragraph 4.3 Support)
- d) inform the chair of governors/nominated governor of the school.

13.2 Where the police object to action being taken as outlined in (a) – (d) above, the head teacher, nominated governor and the LADO should be informed accordingly and arrangements made to keep the school informed by the police as to when these notifications may take place. A written record of the action taken under this section should be made by the head teacher (or nominated governor).

There are likely to be two possible types of internal investigation arising from an allegation of abuse or threat of risk or harm against an individual / employee:

### **13.3 Preliminary investigation**

Where agreed with the LADO, a preliminary investigation should take place. The aim of the preliminary investigation is to obtain, as far as possible, a fair and balanced picture through a written record of the known events. The aim is not to prove or disprove an allegation. This investigation is an initial fact-finding exercise. Its purpose is to enable the head teacher to consider the appropriateness of disciplinary or other action following an initial assessment that no child protection or criminal investigations are necessary.

### **13.4 Internal Disciplinary Investigation**

Where agreed with the LADO that an internal preliminary investigation can start, it is conducted by the school, or other delegated investigating officer, in line with the school's disciplinary procedures. It may be conducted:

- a) following an initial assessment and / or preliminary investigation of the situation where it is agreed that there is no requirement for a police investigation or children's social care enquiry;
- b) as a result of a joint agency strategy discussion / meeting concluding that the matter should be investigated and dealt with under the school's internal disciplinary procedures;
- c) following a police investigation which has led to the matter being addressed by a court of law, regardless of the outcome. It is important to recognise that the burden of proof in a court of law is "beyond reasonable doubt"; that for a disciplinary hearing is "the balance of probabilities". However, it should be noted that the civil test states that this balance of probability should be proportional to the level of sanction being considered.

Following any preliminary or further investigation undertaken by the head teacher or other agencies, the employee should be informed of the next steps. Where a meeting is required, the employee may be accompanied by a trade union representative or colleague.

## **14. Conducting the investigation**

Further guidance and support is available in Part 1 of the school Disciplinary Procedure and the schools named HR Business Partner.

## 14.1 Investigating officer

In most case it will be appropriate for the head teacher or a senior leader in school to conduct the investigation. In other more serious or complex cases, or where there is a lack of appropriate resource within the school, it may be appropriate for the investigation to be conducted by someone independent of the school and the governing body may request that an investigation be undertaken by the HR Service. The school should also ensure that someone is identified (usually the head teacher, or in the case of an allegation against the head teacher, the chair of governors) to monitor the progress of the case to ensure that arrangements are in place to resolve the matter as soon as possible in a thorough and fair process.

## 14.2 Confidentiality and the use of information to and from the police and social care

The school **must** make every effort to maintain confidentiality and guard against unwanted publicity whilst an allegation is being investigated. The Education Act 2011 amended, and the Act 2002 introduced reporting restrictions which make it an offence for a person to “publish” information that may lead to the identification of a teacher who is the subject of an allegation by a child. Publication of information includes, any speech, writing, relevant communication in whatever form which is addressed to the public. A parent publishing information on any social media platform would be in breach of the reporting restrictions if what was published leads to the identification of the teacher.

It is for this reason that the school must seek advice from the LADO and agree who needs to know what information; how to manage gossip and leaks; what information can be given to the wider school community to reduce speculation and how to manage the press interest, should that happen.

These restrictions remain in place until an accused person is charged with a relevant offence or the Secretary of State publishes information about an investigation or decision in a disciplinary case arising from an allegation. In any initial assessment or at an allegations management meeting, all agencies involved should share relevant information about the person who is subject to the allegation and the alleged victim.

Statements or other evidence made available to the police, can only be provided to the school as part of a disciplinary investigation with the consent of the police and the signatories. Undertakings of confidentiality should not be given to any person raising the concerns/ allegations of harm or to anyone who is likely to be interviewed as a witness. Where the police or children’s social care are involved, the LADO / school should ask each agency to obtain consent from the individuals interviewed to share their statements and evidence for use in the school’s disciplinary process. The police and social care should be asked to do this as the investigation proceeds to enable the police to share relevant information with the school without delaying the conclusion of their investigation or any court case. (KCSIE para 373)

Evidence compiled in the investigation should be made available to the parties in any subsequent disciplinary proceedings or child protection investigation and those giving evidence in the investigation should be so informed and be asked to provide their consent at or prior to interview.

If statements are made during a school internal investigation then they may be passed to the police, should the matter become the subject of a police or children’s social care



investigation. As a matter of good practice, the authors of such statements should be informed of this before the interview takes place and before the statements are provided to the police or children's social care. The HR Service can provide further guidance regarding the use of such evidence.

### **14.3 Planning the investigation**

The investigating officer should seek specialist advice from the LADO and the named HR Business Partner regarding appropriate procedures and practicalities. Following this, the person investigating should:

- a) establish a provisional timescale for the investigation (see below)
- b) define areas to be investigated, as far as possible at this stage. The scope of the investigation may change as more evidence / information becomes available.
- c) draw up a provisional list of those to be interviewed; a list of topics to be discussed and questions to be asked of each witness as required during the investigation
- d) Investigate and gather the facts, check corroborative evidence with individual witnesses
- e) assess the credibility of the person raising the concern/allegation and witnesses providing evidence
- f) the accused employee should be invited to identify any persons who may have information relevant to the investigation. These names should be added to the list of those to be interviewed

### **14.4 Timescales**

It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All safeguarding allegations of harm or concerns should be investigated as a priority to avoid any delay. Target timescales are shown below: the time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the safeguarding concern/allegation, but these targets should be achieved in all but truly exceptional cases. The statutory guidance Keeping Children Safe in Education states that it is expected that 80 per cent of cases should be resolved within one month, 90 per cent within three months, and all but the most exceptional cases should be completed within 12 months. This timescale may not always be achievable, but the person conducting the investigation and the person monitoring progress should be able to account for the period of investigation and time taken to conclude a case. All employees should fully engage with the process where required.

False and malicious allegations should be resolved within a five-day timeline. These cases also should be followed up by social care to assess why a child has made a false or malicious allegation and assess whether other issues are influencing the allegations being made. The findings should be recorded for the child.

During an investigation, the investigating officer should constantly keep the emerging evidence under review and consider how the evidence obtained impacts on the conduct of the remaining investigation and period of suspension. This may lead to interviewing additional witnesses, further contact with the Police or social care and / or review of suspension if further evidence emerges of concern.

The timescales will also need to take account of the requirements of the school disciplinary procedures regarding availability, notice for meetings, the sharing of papers and the minimum 10 working days' notice of a disciplinary hearing.

## **14.5 Interviews**

Once the LADO agrees that the internal investigation can proceed, interviews should be timetabled and carried out as soon as possible. A statement should be taken from each person, signed and dated. The person carrying out the investigation should have access to assistance as necessary to record the interview. A suitable venue and time should be selected to encourage co-operation and the opportunity to be accompanied by a trade union representative or colleague should be offered. At the beginning of an interview, reference should be made to any initial statement and there should be a general explanation of the purpose of the investigation and a set of expectations should be provided. (See paragraph 14.2 on confidentiality and information to and from the police and social care)

If, at any stage during the investigation, new evidence emerges which suggests that a referral may be necessary under local child protection procedures or to the police, the investigation should be held in abeyance immediately pending the outcome of such a referral. The LADO and HR Service should be consulted immediately if there is concern as to appropriate action to take at this stage. Consideration should also be given as to whether suspension should be either rescinded or re-considered in such circumstances. The disciplinary investigation should only be resumed if the LADO and / or responsible child protection agency and/or the police indicate that resumption will not interfere with any child protection enquiries or criminal investigations. By agreeing to be interviewed, the employee must also agree to their evidence being used as part of the evidence in the case and to attending in person, where required, to provide verbal evidence at a formal disciplinary hearing or appeal. In serious cases, an employee should also be informed that evidence provided may also be provided to the police and / or social care and used in a further referral to the DBS, TRA or other professional body.

## **14.6 Interviewing the subject of an allegation**

The invitation to a formal disciplinary investigation meeting must be in writing. The point at which this occurs will depend upon the nature of the safeguarding allegation/ concern of harm. The questions must be very carefully planned based on the evidence gathered so far including any witnesses interviewed. The person subject to the allegations should be interviewed formally after all other witnesses so that questions include the evidence known so far. Where it has been agreed that it is appropriate for the employee to be interviewed about the allegations/concerns, the employee should:

- a) be strongly advised again to contact their trade union for advice and support
- b) be informed of their rights under the school's disciplinary procedures, including the right to be accompanied at an investigation interview and right to representation at a formal hearing
- c) be informed of the safeguarding concerns/allegations, in writing, and invited to respond and to make a statement, if not already done so at an earlier stage. The employee has the right either to respond to this request or decline to respond.

Full notes should be taken of the interview and the employee, as other witnesses, invited to read and sign them as a true record as soon as possible at the conclusion of the

interview, or once typed up as soon as possible afterwards. (See Template letter in Part 1)

## 14.7 Interviewing children

Further information on obtaining information from / interviewing children is set out in paragraph 6.4. In summary, the person to whom an allegation or concern is first reported should treat the matter seriously and keep an open mind. They should not:

- a) Investigate or ask leading questions if seeking clarification;
- b) Ask a child to write a statement or write down their version of events;
- c) Make assumptions or offer alternative explanations;
- d) Promise confidentiality but give assurance that the information will only be shared on a 'need to know' basis.

They should:

- a) Make a written record of the information (where possible in the child / adult's own words), including the time, date and place of incident/s, persons present and what was said;
- b) sign and date the written record;
- c) Immediately report the matter to the Designated Senior Officer, or the deputy in their absence.
- d) All actions should be taken in accordance with statutory timescales and guidance

## 14.8 Subsequent Action

Once all the appropriate witnesses have been interviewed and all the relevant issues have been explored, the investigation is complete. Some witnesses may need to be re-interviewed to re-check facts. The person subject to the allegations should be the last person interviewed or re-interviewed. The details obtained and the statements taken should then be compiled into a report and discussed with the LADO and/or HR Business Partner. Consideration will again be given as to whether initial information considered by the police / social care has changed, meaning that the case should be referred under local child protection procedures or to the police and whether suspension is appropriate. If there is such a referral, further proceedings at school level should be held in abeyance. If not, the case should proceed within the school disciplinary procedures.

In conducting an internal disciplinary investigation, the head teacher will need to balance the welfare of the person subject to the allegations and the interests of the investigation, bearing in mind the need to minimise the degree of stress caused to anyone who may be wrongly accused.

## 15. Outcome of internal investigations

There are a number of definitions that should be used by schools to determine the outcome of an allegation as set out below:

- a) **Substantiated** – there is sufficient evidence to prove the allegation
- b) **Malicious** - there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive or cause harm to the person subject to the allegation
- c) **False** - there is sufficient evidence to disprove the allegation
- d) **Unsubstantiated** – there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence; or,
- e) **Unfounded** - to reflect cases where there is no evidence or proper basis which supports the allegation being made.

There are two potential outcomes of the investigation:

### 15.1 Disciplinary action

If the outcome of the investigation is a decision that disciplinary action is needed, any further action should then be in line with Part 1 of the school disciplinary procedures.

### 15.2 Safeguarding Child Protection Concern/Allegation is substantiated and

- a) the person is dismissed, resigns or otherwise ceases to provide his / her services;  
or,
- b) the employer ceases to use the person's services

The school has a legal duty to make a referral to the DBS for consideration of whether the inclusion on the barred lists is required. In the case of a teacher, the school must also consider a referral to the TRA to consider prohibiting the individual from teaching (See Paragraph 143 KCSIE 2021). There is a legal duty for employers to make a referral to the DBS where they consider an individual has engaged in conduct that harmed (or is likely to harm) a child; or is a person otherwise poses a risk of harm to a child. (KCSIE Paragraph 142).

### 15.3 Actions following a criminal investigation or prosecution

At the end of a police investigation or criminal trial the police will inform the LADO of the outcome. The LADO will then discuss whether further action, including disciplinary action is required and, if so, how the school should proceed. The information provided by the police and/or children's social care will inform the decision. The options and final decision will depend on the circumstances of the case and the different standard of proof required in disciplinary and criminal proceedings.

### 15.4 Safeguarding Child Protection Concern/Allegation is unsubstantiated, unfounded, false or malicious

In cases where the head teacher, in consultation with the LADO, HR Service and other appropriate agencies, believe that the allegation is unsubstantiated, unfounded, false or malicious, the following courses of action will need to be considered:

- a) the **LADO** and the head teacher should consider whether the child and / or the person who has made the allegation may need help or may have been abused by someone else and this is a cry for help. They should consider whether a referral should, therefore, be made under the local child protection procedures to assess the situation;
- b) the **DSL** should consider whether the child and / or the person who has made the allegation may need help or may have been abused by someone else and this is a cry for help. They should consider whether a referral should, therefore, be made under the local child protection procedures to assess the situation;
- c) if a report is shown to be deliberately invented or malicious, the school should consider whether any disciplinary action is appropriate against the individual who made it.
- d) arrange a meeting to inform the person subject to the allegations of the outcome and any further actions as per the disciplinary or child protection procedures. This must be

confirmed in writing. The employee may be accompanied by a trade union representative or colleague;

- e) whether counselling and/or informal professional advice to the employee is appropriate and the form either might take. Consider any action under Part B of this procedure in relation to low level concerns;
- f) inform the parents of the child or children of the decision and outline any resultant further action;
- g) Support and advice regarding appropriate action must be sought from the LADO, Children's Social Care and Education Psychology Team in these circumstances; Refer to the section in KCSIE Part Four (statutory guidance) where it sets out the actions to be taken.
- h) prepare a confidential report embodying a) to e) above and giving reasons for the conclusion;
- i) consider any other appropriate action in relation to the child concerned. Advice should be sought, where appropriate, from the LADO.

## **15.5 Reviewing Suspension**

If the employee has been suspended and if at any point during the suspension period the facts indicate that there is no intention to proceed with any form of disciplinary action or grounds for potential dismissal, the continuation of the suspension should be immediately considered. Where in consultation with others (ie HR Service and LADO) suspension is lifted this should be confirmed in writing and the chair of governors informed accordingly. The head teacher should then arrange to meet the employee to discuss arrangements for their return to work. Informal counselling, appropriate support and training may be offered as appropriate to rebuild the employee's confidence and address any issues affecting other staff.

## **15.6 Concluding any disciplinary proceedings and referral to DBS and TRA**

On the conclusion of an investigation which has resulted in disciplinary proceedings being taken against the employee, the following action will need to be taken:

- a) The child or children who made the allegations and their parents / carers should be advised that appropriate action has been taken in line with statutory / school procedures and informed that the internal disciplinary matter has been concluded. The parents should be informed of the outcome in general terms i.e. that the appropriate school procedures have been followed and that the employee has or will return to work or that the employee has been dismissed. This information should be conveyed prior to the employee's return to school if suspended. A return to work will be need careful planning and communication. Governors and other witnesses involved in the cases must understand that parents / carers are not entitled to any details about the governors' deliberations and the information taken into account when making their decision.
- b) Where appropriate counselling and support should be offered to the child before the employee returns to school. This should consider a child's individual needs where a false or malicious allegation has been made and the school may need to consider

appropriate sanctions. Appropriate support and advice may be sought from the LADO, Children's Social Care and EPS. If a child who has made a false or malicious allegation against an employee transfers to another school, advice should also be sought regarding appropriate information to be passed on;

- c) In some circumstances, for example, if an employee has been wrongly accused, support for the employee will be important and it may be appropriate to make appropriate arrangements to minimise the child's contact with the person subject to the allegations;
- d) In view of the recent historic child abuse reviews, all documents relating to the case and any investigation must be retained together with a written record of the outcome of the investigation. Where disciplinary action has been taken, a record should be retained on the employee's personal and confidential file indefinitely.
- e) If the safeguarding concern/allegation is substantiated and the person is dismissed; the employer ceases to use the person's services; or the person resigns or otherwise ceases to provide his or her services; the designated officer(s) should discuss with the case manager and the named HR Business Partner whether the school should make a referral to the DBS for consideration of inclusion on the barred list; and in the case of a member of teaching staff, whether to refer the matter to the Teaching Regulation Agency (TRA) to consider prohibiting the individual from teaching in their capacity as regulators of the teaching profession.
- d) Please remember, that the duty to refer to the DBS applies equally in certain circumstances of harm or risk of harm to a child or vulnerable adult where an individual has been redeployed to another area of work that is not regulated activity, or where they have been suspended. Where the employee has already been referred to the DBS in these circumstances an update to the DBS will be required on the conclusion of the case.

Reminder - There is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct that harmed (or is likely to harm) a child: or if a person otherwise poses a risk of harm to a child. See Guidance on referrals to the DBS.

## 15.7 Record keeping and confidentiality

According to the law, details of allegations that are found to be malicious or false should be removed from the personnel records, unless the individual gives their consent to the retention of this information. Some individuals will want this information kept on their file so please seek consent from the individual before removing. For all other allegations which are substantiated, unsubstantiated and unfounded it is important that the following information is kept on the personnel file of the accused person

- a) Clear and comprehensive summary of the allegation;
- b) Details of how the allegation was followed up and resolved;
- c) A note of any action taken, and decisions reached and the outcome as categorised as above;
- d) A copy provided to the accused person, where agreed by children's social care or the police; and
- e) A declaration on whether the information will be referred to in any future reference.

<b>Personnel records and references</b>			
<b>Allegation Outcome</b>	<b>Definition KCSIE 2021 (381)</b>	<b>Retained on personnel file</b>	<b>Included in reference Yes / No</b>
<b>Substantiated</b>	there is sufficient evidence to prove the allegation	Yes	Yes
<b>Malicious</b>	there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive or cause harm to the person subject to the allegation	No, unless person gives consent	No
<b>False</b>	there is sufficient evidence to disprove the allegation	No – unless person gives consent	No
<b>Unsubstantiated</b>	there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence; or	Yes	No
<b>Unfounded</b>	to reflect cases where there is no evidence or proper basis which supports the allegation being made	Yes	No

15.7.1 The purpose of the record is to retain accurate information by the school and enable accurate information to be provided in any future references. It will also provide clarity in cases where future DBS checks reveal information from the police about an allegation that did not result in a criminal conviction and will prevent unnecessary re-investigation if an allegation resurfaces at a later date.

15.7.2 Schools have an obligation to preserve records of allegations of sexual abuse and the current advice from the County Council is that all records relating to allegations within this policy should be kept **indefinitely** and secure in accordance with the school policy and data protection legislation, **pending the final report of the Independent Inquiry into Child sexual Abuse (IICSA), at which point this advice will be revisited.**

15.7.3 Where a pupil has made an allegation, a copy of the statement or the record made of it must be kept in a separate confidential file which is not open to disclosure, together with a written record of the outcome of the investigation. The pupil's school file should be marked with a red C or other marking denoting a separate child protection/ confidential file as confirmed within the school's child protection policy to indicate that there is a confidential file which is held separately. If criminal or civil proceedings should be necessary, records may be subject to disclosure. No assurances can therefore be given of confidentiality to pupils or other employee witnesses in this respect.

NOTE: Where schools use electronic management recording systems for child protection and safeguarding, such as CPOM's or My Concerns they will need clarify and confirm how they should record this information in accordance with their own data protection procedures.

## **15.8 Safeguarding concerns/Allegation against Head Teacher**

Where the head teacher has been the subject of the investigation the chair of governors will need to consider the wider issues arising from this situation. As well as the need to ensure that personal and professional support is provided to the head teacher, other implications such as appropriate communications to staff and the wider community and the impact of the situation on the school generally will need to be considered. It is expected that a chair of governors will be reliant on and can expect to receive appropriate professional support throughout from the LADO, the Police, the local authority HR Service and Media Relations Team as appropriate to the circumstances of the case. Please refer to Appendix 2.

## **15.9 Review and learning lessons**

The LADO should review the circumstances of the case with either the head teacher or the Chair of Governors throughout the management of the case and at the conclusion to determine whether improvements can be made to the school procedure to avoid a similar event happening again. In addition, the head teacher, the school governing body and local authority may find it helpful to consider whether there are any general matters arising from it which could warrant a review of school or local policy and procedures. Specific training needs of staff should be considered along with implications for all staff, pupils and their parents. Consideration should also be given to addressing concerns of staff, especially where false allegations have been made.

## **15.10 Settlement agreements**

Settlement agreements **must not** be used where there are allegations to indicate the person is a risk or poses a risk of harm to children or deemed not suitable to work with children.

## **15.11 Resignations and non-cooperation**

If a person leaves, resigns or ceases to provide their services the school should not cease their investigations. Every effort must be made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate.

The employee should be given full opportunity to answer the allegations and make representations about them. The process of recording the allegation and any supporting evidence and reaching agreement about whether it can be substantiated or otherwise on the basis of the information available should continue even if the accused does not cooperate. It may be difficult to reach a conclusion and it may not be possible to apply any disciplinary sanctions if a person's notice period expires before the process is complete, but it is important to reach and record an outcome wherever possible. The person concerned should be notified of the conclusion of the allegations and sanctions that might be imposed.

## **15.12 References**

Other than where allegations are malicious, false, unsubstantiated, or unfounded the outcome should be made clear when providing references to prospective employers. See 15.5. above



## Part B

### **Allegations / concerns that do not meet the harms threshold – referred to as “low level” concerns.**

*Note:*

- a) Part B is replicated and forms part of the School Employee Code of Conduct -Appendix 1: Managing Low level concerns - concerns that do not meet the harm threshold.*
- b) Once approved by the governing body, this policy should be shared with all staff, volunteers, supply staff and contractors.*

#### **1. Introduction**

The Governing body adopts this policy and process to manage, take appropriate action and record any **low-level concerns** relating to safeguarding children (including allegations) which do not meet the harm threshold as set out in statutory guidance and paragraph 3. The **School Disciplinary Procedure Part 2 Managing safeguarding risks and allegations / concerns of harm and abuse made against all school staff Section One** sets out the procedures to be followed where the threshold for harm is met. The procedures acknowledge that “**low-level**” concerns about behaviour or conduct may arise in several ways and from a number of sources. For example: suspicion; complaint; or disclosure made by a child, parent or other adult within or outside of the school; or as a result of vetting checks undertaken. The policy and process sets out the appropriate action to be taken to safeguard children.

#### **2. The purpose of the policy**

As part of the whole school approach to safeguarding, this policy is intended to:

- a) This policy is replicated in full in the **School Employee Staff Code of Conduct - Appendix 1**. The Code sets out the expected behaviour of all staff.
- b) promote an open and transparent culture in which all concerns (Low level or otherwise) are reported and managed in line with statutory requirements about all adults working in or on behalf of the school (**including supply teachers, volunteers and contractors**) are dealt with promptly and appropriately.
- c) recognise the critical importance of creating a school culture in which **all** concerns about adults (including allegations that do not meet the harms threshold (paragraph 3) are shared responsibly and with the right person, recorded and dealt with appropriately.
- d) deal with low level concerns about individuals effectively to ensure that all staff, and others working in the school, are protected against potential false allegations or misunderstandings.
- e) encourage an open and transparent culture; enable the school to identify concerning, problematic or inappropriate behaviour early; minimise the risk of abuse; and ensure that all adults working in or on behalf of the school are clear about professional boundaries and act within these boundaries, and in accordance with the ethos and values of the school.

#### **3. The Allegations threshold**

Where the school is required to manage an allegation that might indicate a person would pose a risk of harm if they continue to work in their present position, or in any capacity with children in a school or college, the **School Disciplinary Procedure Part 2 (A) Managing**

**safeguarding risks and allegations/concerns of harm and abuse made against all school staff** will be followed. This includes all situations where it is alleged that anyone working in the school, including supply teachers, volunteers and contractors has:

- a) **behaved in a way that has harmed a child, or may have harmed a child and/or;**
- b) **possibly committed a criminal offence against or related to a child and/or;**
- c) **behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children; and/or**
- d) **behaved or may have behaved in a way that indicates they may not be suitable to work with children.**

118 The harm test is explained on the Disclosure and Barring service website on GOV.UK. Section 31(9) of the Children Act 1989 as amended by the Adoption and Children Act 2002

If a school is in doubt as to whether the information which has been shared about a member of staff as a low-level concern in fact meets the harm threshold, they should consult with their LADO.

#### **4. Low level concerns: definition**

This policy and procedure will be used to manage all reports of “low-level” concern. The headteacher will be the ultimate decision maker in respect of all low-level concerns, although it is recognised that depending on the nature of some, low level concerns and/or the role of the DSL, the headteacher may want to consult with the DSL and take a more collaborative decision-making approach.

The term ‘low-level’ concern does not mean that it is insignificant, Keeping Children Safe in Education states that it is behaviour towards a child that does not meet the harms threshold: *“A low-level concern is any concern – no matter how small, and even if no more than causing a sense of unease or a ‘nagging doubt’ - that an adult working in or on behalf of the school may have acted in a way that:*

- a) is inconsistent with the staff code of conduct, including inappropriate conduct outside of work; and*
- b) does not meet the harms allegations threshold or is otherwise not considered serious enough to consider a referral to the LADO.”*

As part of their whole school approach to safeguarding, the Head teacher, governing body and designated safeguarding leads should ensure that they promote an open and transparent culture in which all concerns about all adults working in or on behalf of the school (including supply teachers, volunteers and contractors) are dealt with promptly and appropriately.

Creating a culture in which **all** concerns about adults (including allegations that do not meet the harms threshold) are shared responsibly and with the right person, recorded and dealt with appropriately, is critical.

#### **5. Examples of low-level concern**

Such behaviour can exist on a wide spectrum, from the inadvertent or thoughtless, or behaviour that may look to be inappropriate, but might not be in specific circumstances, through to that which is ultimately intended to enable abuse. Behaviour is not limited to but could include:

- a) being over friendly with children;

- b) having favourites;
- c) taking photographs of children on their mobile phone;
- d) engaging with a child on a one-to-one basis in a secluded area or behind a closed door;  
or,
- e) using inappropriate sexualised, intimidating, or offensive language\*

*\*Please note whilst (a) – (e) above are a direct quote from KCSIE as examples of “low level” concerns”, the LADO does not view (c) , (d) and (e ) as low level concerns. Concerns of this nature require urgent discussion / referral to LADO in the first instance. The national LADO network has raised this as an issue with the safeguarding unit of the DFE.*

*Potential patterns of concerning, inappropriate, problematic behaviour should be identified and appropriate action either thorough the School Disciplinary procedure or by referral to LADO where the harm threshold is met. Consideration should also be given as to whether there are wider cultural issues within the school that enabled the behaviour to occur and where appropriate policies should be revised, or extra training delivered to minimise the risk of it happening again.*

## **6. Reporting safeguarding concerns, including low level concerns about staff**

All staff (including supply staff, volunteers, and contractors) should understand the schools processes and procedures to report and manage any safeguarding concerns about other staff members. In order to ensure that issues are appropriately managed and reported, if staff have safeguarding concerns, low level concerns or otherwise, or an allegation is made about another member of staff (posing a risk of harm to children), then:

- a) this should be reported to the headteacher or DSL;
- b) where there are concerns/allegations about the headteacher, this should be referred to the chair of governors, chair of the management committee or Trust Board;
- c) where an employee or other person working at the school, feels unable to report a concern in this way they should refer to the Whistleblowing and Confidential Reporting Policy and /or contact an appropriate external agency, the Corporate Director for Children, Young People and Schools, Nottinghamshire County Council or their own professional body.

## **7. Staff code of conduct and safeguarding policies**

The School Employee Staff Code of Conduct reinforces professional and appropriate behaviour by setting out the expected standards of personal and professional conduct in relation to safeguarding children. This policy forms part of the Code of Conduct – Appendix 1 and other existing school systems to ensure all children are safe in this school.

## **8. Behaviour of all staff**

All staff are expected to understand the appropriate standards of conduct required and ensure that safeguarding policies and procedures are implemented effectively. Where concerns are raised, the head teacher and the governing body will ensure appropriate action is taken in a timely manner to safeguard children and facilitate a whole school approach to dealing with **any issues** raised about the conduct of staff. The head teacher and the governing body will achieve the purpose of their low-level concerns policy by, for example:

- a) ensuring all staff are clear about what appropriate behaviour is, and are confident in distinguishing expected and appropriate behaviour from concerning, problematic or inappropriate behaviour, in themselves and others;
- b) empowering staff (including supply staff, volunteers and contractors) to share any low-level safeguarding concerns
- c) creating an environment where staff are encouraged and feel confident to self-refer, where, for example, they have found themselves in a situation which could be misinterpreted, might appear compromising to others, and/or on reflection they believe they have behaved in such a way that they consider falls below the expected professional standards.
- d) addressing unprofessional behaviour and supporting the individual to correct it at an early stage;
- e) providing a responsive, sensitive and proportionate handling of such concerns when they are raised; and,
- f) helping identify any weakness in the school or colleges safeguarding system.

## **9. Sharing low-level concerns**

The school will ensure that any reported low-level concerns about supply staff and contractors are referred on to their employers, so any potential patterns of inappropriate behaviour can be identified.

## **10. Recording low-level concerns and confidentiality (GDPR)**

All low-level concerns should be recorded in writing. The record should include details of the concern, the context in which the concern arose, and action taken. The name of the individual sharing their concerns should also be noted, if the individual wishes to remain anonymous then that should be respected as far as reasonably possible.

The records will be kept confidential, in accordance with the schools Data Protection Policy, held securely to comply with the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR). The Act does not prevent the sharing of information for the purposes of keeping children safe and fears of sharing information must not be allowed to stand in the way of the need to safeguard and promote the welfare and protect the safety of children.

Records will be reviewed as appropriate so that that potential patterns of concerning, problematic or inappropriate behaviour can be identified. Where a pattern of such behaviour is identified, the school will decide on a course of action, either through its disciplinary procedures or where a pattern of behaviour moves from a concern to meeting the harms threshold, a referral to the LADO. The school will keep under review whether there are wider cultural issues within the school that enabled the behaviour to occur and where appropriate policies will be revised or extra training delivered to minimise the risk of it happening again.

Information regarding low level concerns will be retained on the employee's school personnel file

## **11. References**

In accordance with statutory guidance, the school will only provide substantiated safeguarding allegations in references. Low level concerns will not be included in references unless they relate to issues which would normally be included in a reference, for example, where there is evidence of misconduct or poor performance. Low-level concerns which relates exclusively to safeguarding (and not to misconduct or poor performance) should not

be referred to in a reference. However, where a low-level concern (or group of concerns) has met the threshold for referral to the LADO and found to be substantiated, they will be referred to in a reference.

## **12. Responding to and recording low-level concerns**

The school will respond to reports of low-level concerns in the following way. If the concern has been raised via a third party, the headteacher/chair of governors or other nominated person will gather as much evidence as possible by speaking:

- a) directly to the person who raised the concern, unless it has been raised anonymously;
- b) to the individual involved and any witnesses.
- c) where appropriate the individuals involved will be asked to provide a written statement

The head teacher, Chair of governors or other nominated person will use the information gathered to help categorise the type of behaviour and determine what further advice and action may need to be taken. The school will record this information together with the rationale and justification for the decision and subsequent action taken.

The school recognises that the management of low-level concerns will be a reflection and extension of the School's Employee Code of Conduct/ behaviour policy.

More detailed guidance and case studies on low-level concerns can be found in Developing and implementing a low-level concerns policy ([farrer.co.uk](http://farrer.co.uk)).

### **Document ends**

01.09.22 (SH/AW)

## **Annex 1 Advice and Guidance**

### **School Disciplinary Procedure Part 2 Managing safeguarding risks and allegations/concerns of harm and abuse made against all school staff**

#### **1) Telephone Contact Points**

LA Designated Officer (LADO)	0115 804 1498
MASH (Multi-agency Safeguarding Hub)	0300 500 80 90
HR Duty Desk	0115 977 4433
Nottinghamshire County Council's Media Relations Team	0115 977 3881

#### **2) Reference Documents**

Nottinghamshire Safeguarding Children Partnership (NSCP) Procedures.

Whole School Child Protection Policy 2020-2021

Working together to safeguard children HM Government 2018

Keeping children safe in education DfE Statutory Guidance - 2021

Nottinghamshire School Employee Code of Conduct

## **Annex 2**

### **School Disciplinary Procedure: Part 2 Managing safeguarding risks and allegations/concerns of harm and abuse made against Head Teachers**

In dealing with allegations of or risks of harm against the head teacher, the procedures to be followed are broadly like those which apply to other employees. However, in these circumstances, additional issues will need to be considered, including the leadership of the school, the increased sensitivities relating to the high profile nature of the head teacher's role in the community and the need for the matter to be dealt with directly by governors. Governing Bodies and Trusts of maintained schools and academies who purchase their HR services from Nottinghamshire County Council will be able to access advisory support from the HR Service.

Allegations made against the head teacher may come via a parent or a pupil, another employee or member of the community. A member of the governing body receiving such an allegation should report the matter immediately to the nominated safeguarding governor and the Chair of Governors. That nominated person must then take immediate action in line with the general guidance detailed in the main body of this advice and the issues addressed in this section. In the first instance, the need for confidentiality must be stressed and an assurance given that the allegations as reported will be taken seriously. Advice should be sought immediately from (a) the LADO and (b) Senior HR Business Partner, in that order.

A teacher receiving an allegation made against the head teacher should, after consideration of the section, paragraph 6 and 7 "Initial Response to an allegation" report this immediately to the designated person who should inform the nominated safeguarding governor. If the head teacher is also the designated person, the allegation must be referred directly to the nominated safeguarding governor.

At this point, the nominated governor will need to take on many of the responsibilities of the head teacher as outlined in the Initial Response section of this guidance. The nominated governor should, therefore, immediately contact the LADO for support and guidance in managing this potentially difficult situation on behalf of the governing body.

The first consideration will be to undertake an initial assessment in conjunction with the LADO to decide the next steps. It is most important that external advice is sought from the LADO as the first step. The likely outcomes are either:

**a) A need for immediate referral to Child Protection Agencies**

If after consultation with the LADO, this appears to be necessary, the LADO or nominated governor as appropriate must report the matter to the appropriate agencies. Child protection enquiries will then be conducted by Children's Social Care under NSCP Procedures.

**Or**

**b) Further consideration of whether the allegations call for urgent referral to Child Protection Agencies**

The nominated governor will be required to act promptly at this stage but is not expected to investigate the allegation or to interview pupils. Their role at this stage is to consult the LADO and other appropriate Senior Local Authority Officers to consider whether the allegation warrants further investigation and, if so, by whom and within what timescale.

Please refer to paragraphs, 6 and 7 of the main body of the policy for detail on the steps to be taken. In consultation with the LADO (HR Business Partner will be allocated once LADO has given initial advice). In summary, the nominated governor will be advised when and how to:

1. obtain details of the allegation in writing, signed and dated by the person who received the allegation (not the child who is the subject of the allegation) and countersigned and dated by the teacher or nominated governor
2. record any information about times, dates, locations and the names of any potential witnesses
3. Stress the need for absolute confidentiality

Where the nominated governor, in consultation with the LADO, believes that the allegation warrants formal enquiries/investigations he or she should either:

- a) make an immediate referral in line with NSCP Procedures

Or

- b) consider the need for internal disciplinary action if it is clear that children are not at risk and that there are no outstanding issues which warrant social care or police investigation. If internal disciplinary action is needed it will need to be investigated by the school in line with the guidance above and the usual disciplinary procedures (see Disciplinary Procedure Part 1 – Managing the Conduct of School Staff)

In cases where suspension of the head teacher and/or an internal investigation have been agreed, the HR Business Partner will inform the Director of Children and Families Service (or their nominated representative); and provide support and advice throughout the process in line with the Disciplinary Procedure Part 1 – Managing the Conduct of School Staff.

**Always refer to the main body of the document for complete advice**



## **Annex 3 – Summary of Formal Procedure**

### **School Disciplinary Procedure Part 2 Managing safeguarding risks and allegations/concerns of harm and abuse made against all school staff**

Any allegations of child abuse or harm against employees or other person working in the school require the Governing Body to act in accordance with the locally and nationally agreed procedures as summarised below. Reference should also be made to the most recent version of the government document **Keeping Children Safe in Education – Part 4 Allegations made against /concerns raised in relation to teachers, including supply teachers, other staff, volunteers, and contractors**

#### **First response**

- Inform the LA Designated Officer (LADO) immediately and seek detailed advice on next steps and clarify next actions including what information, can be shared, if any, with anyone, including the alleged perpetrator.
- Record allegations and action taken immediately, but no later than within 24 hours.
- Joint agency strategy discussion may be instigated.
- Work jointly with LADO, other professionals, and HR Business Partner

#### **Initial assessment**

- In conjunction with LADO, decision taken regarding appropriate course of action.
- Possible outcomes:-
  - Immediate referral to children's social care under the local child protection procedures / possible police investigation.
  - Inappropriate behaviour or bad practice by the employee to be dealt with under the school's disciplinary procedures.
  - Other appropriate action where allegation is agreed to be without foundation.
- Consideration of suspension of employee.

#### **Formal investigations**

- Three possible types of investigation may arise from such allegations: -
  - Enquiry conducted by Children's Social Care (NSCB procedures.)
  - Related police investigations into possible criminal offences.
  - Internal investigation (school's disciplinary procedures.)
- Consideration of suspension of employee.

#### **Internal investigations**

1. Preliminary investigation to gather evidence and produce a written record of known events.
2. Formal investigation conducted by the school in line with the school's disciplinary procedures following: -

- an initial assessment and / or preliminary investigation of the situation where it is agreed that there is no requirement for a police investigation or children's social care enquiry.
  - a joint agency strategy discussion / meeting concluding that the matter should be dealt with under the school's internal disciplinary procedures.
  - a police investigation which has led to the matter being addressed by a court of law, regardless of the outcome.
- DFE advisory timescales for internal investigations: -
    - Report produced within 10 working days.
    - Head teacher consults LADO within 2 working days to decide whether to hold disciplinary hearing.
    - Disciplinary hearing held within 15 working days of that decision, pending investigation.
    - LADO and school required to monitor progress of investigation.
  - Two potential outcomes of the internal investigation: -
    - Disciplinary action in line with the school disciplinary procedures
    - Or
    - Allegation confirmed as without foundation (in consultation with the LADO and other appropriate agencies).

**This procedure may not always be straight forward, and head teachers and governing bodies are strongly advised to seek guidance throughout from the LADO and HR Service.**

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<b>Lead HR Business Partner</b>	<b>Julie Dawkins / Susan Harrison</b>
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<b>Lead HR Senior Business Partner</b>	<b>Andy Wilson</b>

**Documents ends**

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