EQUALS TRUST

Managing Safeguarding Allegations of Abuse and Low Level Concerns Against Staff

Version control

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1.0 Introduction and Criteria

Managing allegations of child abuse against Trust Staff requires the school to act in accordance with the locally and nationally agreed procedures. The definitions of child abuse are contained within the Nottinghamshire Safeguarding Children Board (NSCB) Procedures. A copy of this is available in school.

This document provides 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. It should be used in respect of all cases in which it is alleged that a member of staff (including volunteers) in a school that provides education for children under 18 years of age has:

- behaved in a way that has harmed a child, or may have harmed a child;
- possibly committed a criminal offence against or related to a child; or
- behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children.
- behaved in a way that indicates they may not be suitable to work with children, including behaviour that has happened outside of school.

2.0 Roles and Responsibilities

We have a statutory duty to assist Local Authority Children's Social Care services with their enquiries into allegations of child abuse. We will act immediately, within these procedures, when abuse is suspected and will take the appropriate action where an allegation is made.

Because of Trust Staff's daily contact with children in a variety of situations, teachers and 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.

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. Allegations may be substantiated, false, malicious or unsubstantiated.

2.1 Where an allegation is made, this must be reported to the head teacher immediately.

In the case of an allegation against the head teacher, the matter should be reported to the CEO of the Trust. Before taking any further action the head teacher or the CEO will seek immediate advice from the Local Authority Designated Officer (LADO) and must not interview or discuss the allegation with the employee. Reports are made to the LADO using the online form.

The LADO will provide advice on how the allegation(s) should be managed, taking into account the nature, content and context, including the involvement of the police and the Trust HR Manager. 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 and Social Care colleagues.

Every effort should be made by all parties to resolve cases as quickly as possible consistent with the need for a fair and thorough examination of the allegations (see Part 4 KCSIE – Timescales).

The Trust is required to record and monitor the progress of all such cases and any subsequent investigations (details are contained in Part 4 KCSIE – Record Keeping).

3.0 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 and Trust Head of HR in these circumstances. In general, a police investigation will take precedence and the school investigation will be held in abeyance pending Police / court actions.

4.0 First Response

Any member of staff who witnesses abusive behavior 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 procedures, including the statutory guidance Keeping Children Safe in Education.

A child reporting to a member of staff that they have been abused by an adult or member of school staff **must be listened to**. It is sometimes difficult for an employee to believe that a colleague may have behaved in the manner alleged. You must keep an open mind regarding the circumstances of the allegation.

- 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 must 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.
- You must take care not to make assumptions about what the child is saying or to make interpretations.
- You must not offer suggestions or alternative explanations for the child's concerns.
- A written record of the allegations should be signed and dated by you as soon as possible.
- All subsequent actions must be recorded in writing.

5.0 Confidentiality

Don't make promises of confidentiality **-** 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.

Ensure you write it down - a dated, written record of the allegations disclosed by the child 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.

REPORT IT IMMEDIATELY – to the Head Teacher, CEO or, in their absence, the designated safeguarding lead (DSL).

The head teacher, CEO or DSL 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, CEO or DSL. Any information about times, dates, locations and names of potential witnesses should be recorded.

6.0 Initial assessment

At this stage the head teacher, CEO or DSL along with the Head of HR must urgently consider whether there is sufficient substance in the allegation (anonymous or otherwise) to warrant further action. To assist in making this decision, they must immediately inform and seek advice from the LADO. In some cases, it may also be necessary to seek immediate advice from the local Children's Social Care duty team. A joint agency strategy discussion between the school, the LADO, Social Care, HR and police may be instigated at this stage to determine the appropriate action to be taken.

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 an allegation warrants further investigation and deciding whether or not an allegation is well founded.

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 other person) 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.

6.1 Allegations against supply staff, contractors or against people hiring our premises

Where an allegation is made against a supply member of staff, contractor or someone hiring our premises, the Head Teacher (or other appropriate member of staff) will immediately contact both the agency/company concerned and the LADO where appropriate. The school will continue to support any investigation that is required.

6.2 Allegations which do not warrant referral

It is recognised that in some circumstances the allegations will not warrant referral under NSCB procedures. For example:

- Where the allegation clearly relates to the use of reasonable force to restrain a pupil in accordance with current guidance and legislation
- Where, following initial consideration by both the head teacher and the LADO, it is absolutely clear that the allegation is demonstrably false.

7.0 Low Level Concerns

A low-level concern is any concern about an adult's behaviour towards, or concerning, a child that does not meet the harms threshold (see below) or is otherwise not serious enough to consider a referral at the time of its reporting. Low-level concerns refer to behaviour on the part of a staff member towards pupils that is considered inappropriate in line with statutory safeguarding advice and the Staff Code of Conduct.

Low-level concerns are differentiated from concerns that can cause **harm**. The harms threshold is the point at which a concern is no longer low-level and constitutes a threat of harm to a child. This threshold is defined as accusations that an adult has:

- Behaved in a way that has harmed a child or may have harmed a child.
- Possibly committed a criminal offence against, or related to, a child.
- Behaved towards a child in a way that indicates they may pose a risk of harm to children.
- Behaved in a way that indicates they may not be suitable to work with children, including behaviour that has happened outside of school.

While low-level concerns are, by their nature, less serious than concerns which meet the harms threshold, the school understands that many serious safeguarding concerns, e.g. child sexual abuse, often begin with low-level concerns, e.g. being overly friendly with children. The school will ensure that all staff are aware of the importance of recognising concerns before they escalate from low-level to serious, wherever possible.

7.1 Reporting Low Level Concerns

The Trust and each of our schools will promote a culture in which safeguarding pupils is the uppermost priority, beyond any perceived professional loyalties to colleagues, ensuring that staff are actively encouraged to report concerns, regardless of their relationship with the staff member.

Staff will report all safeguarding concerns they have to the headteacher immediately in line with the procedures laid out in the Child Protection and Safeguarding Policy. Staff members will report concerns without undue delay. Where the report concerns a specific incident, staff members will report their concerns no later than **24** hours after the incident where possible**. Staff members will be aware that concerns are still worth reporting even if they do not seem serious**.

Staff members will report their concerns to the DSL or deputy DSL verbally.

Staff members may request anonymity when reporting a concern, and the school will endeavour to respect this as far as possible. The school will not, however, promise anonymity to staff members who report concerns in case the situation arises where they must be named, e.g. where it is necessary for a fair disciplinary hearing. In line with the Whistleblowing Policy, staff will be protected from potential repercussions caused by reporting a genuine concern.

Where a low-level concern relates to the Headteacher, it should be reported to the CEO of the Trust or Trust HR Manager who will liaise with the chair of governors.

Where a low-level concern relates to a person employed by a supply agency or a contractor to work in the school, staff will also be required to report this to the DSL, who will, in turn, inform the employer of the subject of the concern.

7.2 Self-reporting

On occasion, a member of staff may feel as though they have acted in a way that:

- Could be misinterpreted.
- Could appear compromising to others.
- They realise, upon reflection, falls below the standards set out in the Staff Code of Conduct or violates another policy.

The school will ensure that a culture is maintained that enables and encourages staff members to self-report if they feel as though they have acted inappropriately or in a way that could be construed as inappropriate upon reflection. The Headteacher and DSL will, to the best of their abilities, maintain a culture of approachability for staff members, and will be understanding and sensitive towards those who self-report.

Staff members who self-report will not be treated more favourably during any resulting investigations than staff members who were reported by someone else; however, their self-awareness and intentions will be taken into consideration.

7.3 Evaluating concerns

Where the Headteacher and/or DSL is notified of a safeguarding concern, they will use their professional judgement to determine if the concern is low-level or if it must be immediately escalated, e.g. where a child is at immediate risk of harm. When deciding if a concern is low-level, the Headteacher or DSL will seek advice from external agencies where there is any doubt about how seriously to take the concern. When seeking external advice, the Headteacher or DSL will ensure they adhere to the Data Protection Policy, and the information sharing principles outlined in the Child Protection and Safeguarding Policy, at all times.

To evaluate a concern, the Headteacher and/or DSL will:

- Speak to the individual who raised the concern to determine the facts and obtain any relevant additional information.
- Review the information and determine whether the behaviour displayed by the individual about whom the concern was reported is consistent with the Staff Code of Conduct, school and Trust policy and the law.
- Determine whether the concern, when considered alongside any other low-level concerns previously made about the same individual, should be reclassified as an allegation and dealt with under this policy at Section 8 (*Allegations which warrant further investigation and/or referral*).
- Consult with, and seek advice from, external agencies when in doubt over the course of action to follow. Advice should also be sought from the Trust HR service.
- Speak to the individual about whom the concern has been raised to inform them of the concern and to give them an opportunity to respond to it.
- Ensure that accurate and detailed records are kept of all internal and external conversations regarding evaluating the concern, and any actions or decisions taken.

7.4 Acting on concerns

7.4.1 Where the concern is unfounded

If it is discovered upon evaluation that the low-level concern refers to behaviour that was not considered to be in breach of the Staff Code of Conduct, other school or Trust policy or the law, the Headteacher will speak to the individual about whom the concern was made to discuss their behaviour, why and how the behaviour may have been misconstrued, and what they can do to avoid such misunderstandings in the future. The Headteacher will also speak to the individual who shared the concern, outlining why the behaviour reported is consistent with school standards and the law. The Headteacher will take care to ensure that conversations with individuals who reported concerns that transpired to be unfounded do not deter that individual from reporting concerns in the future.

The Headteacher will discuss the concern with the DSL and Trust Head of HR to discern whether the behaviour, and the reporting of this behaviour, is indicative of ambiguity in the school's policies or procedures, or the training it offers to staff. Where such ambiguity is found, the DSL and Headteacher will work together to resolve this with input from other staff members, as necessary.

7.4.2 Where the concern is low-level – Procedure

Where the Headteacher determines that a concern is low-level, the school will respond to this in a sensitive and proportionate manner. The following procedure will be followed:

- The Head Teacher holds a meeting with the individual about whom the concern was reported or raised or noted, during which they will:
  - Talk to the individual in a non-accusatory and sympathetic manner.
  - Inform them of how their behaviour was perceived by the individual who noted the concern (without naming them, where possible).
  - Clearly state what about their behaviour was inappropriate and problematic.
  - Discuss the reasons for the behaviour with the individual.
  - Inform the individual clearly what about their behaviour (if accepted) needs to change.
  - Discuss any support that the individual may require in order to achieve the proper standards of behaviour.
  - Allow the individual the opportunity to respond to the concern in their own words.
  -
- The Headteacher asks the individual to re-read the Staff Code of Conduct and/or other appropriate policy, depending on the nature of the concern.
- The Headteacher will consider whether the individual should receive guidance, supervision or counselling (disciplinary procedure) or any further training.
- Where it is necessary to undergo an investigation into the behaviour, this will be done discreetly, and information will only be disclosed to individuals on a need-to-know basis.
- Where any pupil or other individual has been made to feel uncomfortable by the individual's behaviour, they will be offered pastoral support, where appropriate.

The Headteacher will ensure that all details of the low-level concern, including any resultant actions taken, are recorded and securely stored.

The specific approach to handling low-level concerns will be adapted on a case-by-case basis. It is unlikely that a low-level concern will result in disciplinary procedures; however, individuals may be

given warnings in line with the Disciplinary Policy and Procedure where behaviour does not improve once it is brought to their attention. Where behaviour does not improve over a longer period of time, the concerns will be escalated and dealt with in line with the procedure below in this policy.

8.0 Allegations which warrant further investigation and/or referral

Where the initial assessment by the LADO and the head teacher (or other appropriate person) concludes that the allegation warrants investigation**,** there will be either:

- a referral to one or more of the agencies with statutory responsibilities to make enquiries; or
- 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 significant harm or that a potential crime has not been committed.

9.0 Outcomes of the Initial Assessment

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 **likely to suffer significant harm**, there should be an immediate referral to children's social care under the local child protection procedures.

b) Where the child has alleged that a **criminal offence has been committed** within the scope of child protection legislation, a referral to children's social care under local child protection procedures will be necessary. The police may then decide to carry out a criminal investigation.

c) Where it is considered that the allegation was prompted by **inappropriate behaviors 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. 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, the arrangements will also need to comply with the timescales set out in the school's disciplinary procedures.

d) Where it has been demonstrated that **the allegation is without foundation** consideration must be given as to what other appropriate action needs to be taken. In such cases, the DFE recommends that the Head Teacher should take any such appropriate action, where possible, within 3 working days.

10. Referral to Children's Social Care and/or Police

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.

Where allegations of abuse are referred to Children's Social Care or the police, subsequent action by all of 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 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. There must then be no interference with evidence and, in particular, no staff

or governors should attempt to interview children about these matters. The sections "First Response"- and **"**Conducting the Investigation**"** give specific guidance on listening to and interviewing children in these circumstances.

In some cases, the police may want to interview the member of staff against whom the allegation is made before the Head Teacher / designated person (or CEO 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 confidentiality must be maintained. 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.

When police are involved 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 an employee 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.

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 the parties involved. Subject to there being no objection, the Head Teacher (or other appropriate person from EQT 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 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.

(d) inform the CEO/Trust HR Manager and the chair of governors/nominated governor of the school.

Where the police object to action being taken as outlined in (a) – (d) above, the Head Teacher/nominated governor (CEO in the cases of Head Teachers) and the LA should be informed accordingly and arrangements made to keep the school informed as to when these notifications may take place with the police. A written record of the action taken under this section should be made by the Head Teacher (or nominated governor).

11. Suspension

Head Teacher will refer to the Trust disciplinary policy whenever suspension is being considered. Consideration of suspension should always be discussed in advance with the LADO and the Trust HR Manager. The staff member against whom the allegation has been made will not be automatically suspended but it may be deemed necessary to do so. Whilst clarity over the facts is sought in the initial stages, the staff member may be instructed not to attend their place of work, with a decision for the member of staff to return to work or be suspended taken over the following day or so. In other circumstances, suspension may subsequently be considered at any stage of the investigation if the situation warrants such action to be taken. It may also be considered at any multi-agency strategy meetings called in relation to the case.

12.0 Preliminary investigation

The staff member will be invited to attend a meeting. They may bring a work colleague to this meeting or their Trade Union Representative if they are immediately available. The aim of this meeting is to obtain the staff member's initial response to the allegations and to understand the main facts from the employee's point of view.

Any statements made by the employee or other witnesses in any part of this process will be shared, if necessary, with LA agencies and/or the police. The Trust may request information from the police or LA agencies in order to help with internal Trust investigations.

13.0 Formal Investigations

There are three possible types of investigation which may result from such allegations:

a) an enquiry conducted by Children's Social Care under local NSCB procedures.

b) related police investigations into possible criminal offences.

c) an internal investigation under the schools agreed disciplinary procedures.

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 NSCB Procedures. This will usually involve the Head Teacher (or CEO/nominated governor where the allegation is against the Head Teacher), the LADO (or their representative), as well as officers from social care, HR 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.

14.0 Internal Disciplinary Investigation

Please refer to the Trust disciplinary policy for guidance about how investigations will be undertaken and what to expect if you are an employee being investigated.

All investigations should be undertaken thoroughly but as quickly as possible. We will aim to investigate within 10 working days. On receipt of the report, the Head Teacher or other appropriate person should consult with the LADO and within 2 working days and will decide whether a disciplinary hearing should be held. Timescales will need to take account of the requirements of the Trust disciplinary procedures.

15.0 Confidentiality

Undertakings of confidentiality should not be given to a person making allegations or anyone who is likely to be interviewed. 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 informed of this.

If statements are made in the course of an internal investigation then they may be passed to the police, should the matter become the subject of a police investigation. As a matter of good practice, those making such statements should be informed of this

16.0 Subsequent Action

Once all the appropriate witnesses have been interviewed and all the relevant issues have been explored, the investigation is complete. The details obtained and the statements taken should then be compiled into a report and discussed with the LADO and/or HR. 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 may be held in abeyance.

17.0 Outcome of internal investigations

There are two potential outcomes of the investigation:

17.1 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 the usual disciplinary procedures. (See Trust Disciplinary Policy). 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.

17.2 Allegation is unsubstantiated

In cases where the Head Teacher, in consultation with the LADO, HR and other appropriate agencies, believes that the allegation is without foundation, the following courses of action will need to be considered:

a) whether the child might have been abused by someone else and whether a referral should, therefore, be made under the local child protection procedures to assess the situation;

b) arrange a meeting to inform the accused employee of the allegation and the fact that no further action is to be taken under disciplinary or child protection procedures. This should be confirmed in writing. The employee may be accompanied by a trade union representative or work colleague;

c) whether counselling and/or informal professional advice to the employee is appropriate and the form either might take;

d) inform the parents of the child or children of the decision not to take any further action;

e) consider appropriate counselling and support for the child or children who made the allegation(s) and, where appropriate, their parents. In particular, take into account a child's individual needs where a false or malicious allegation has been made. Support and advice regarding appropriate action must be sought from the LADO, Children's Social Care and EPS Team in these circumstances;

f) prepare a confidential report embodying a) to e) above and giving reasons for the conclusion that the allegation is without foundation;

g) consider any other appropriate action in relation to the child concerned. Advice should be sought, where appropriate, from the LADO.

h) If the employee was suspended, this should be lifted and confirmed in writing. The Head Teacher or other appropriate person will meet with the employee to discuss arrangements for their return to work. It may be appropriate to consider counselling, coaching or mentoring

or other training to help the employee rebuild confidence and/or address issues relating to the situation.