



Dealing with allegations of abuse and low-level concerns made against teachers, including supply teachers, other staff, volunteers, and contractors

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This policy has been based on Ealing's model policy December 2022, and KCSIE

This policy takes into account the following guidance

- Keeping children safe in education (Department of Education, September 2022)
- London Child Protection Procedures, October 2022, Chapter 7 Allegations against staff or volunteers who work with children
- Working Together to Safeguard Children, A guide to inter-agency working to safeguard and promote the welfare of children (Department of Education July 2018, Updated 2020)
- Developing and implementing a low-level concerns policy: A guide for organisations which work with children, Farrer and Co

All references in this document to 'members of staff' or 'staff' should be interpreted as meaning all paid or unpaid staff including supply teachers, other staff, volunteers, and contractors

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1 Allegations dealt with by these procedures

This guidance is about managing cases of where an allegation has been made that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children. It should be used in respect of all cases in which it is alleged that a member of staff, supply teacher, volunteer, or contractor, in school 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 would pose a risk of harm if they work regularly or closely with children.
- behaved or may have behaved in a way that indicates they may not be suitable to work with children.¹

These behaviours should be considered within the context of the four categories of abuse: physical, sexual, emotional abuse and neglect. KCSIE 2022 makes it clear that both mental and physical health are relevant to safeguarding and the welfare of children.

Allegations can be made in relation to physical chastisement and restraint but can also relate to inappropriate relationships between a member of staff, supply teacher, volunteer, or contractor and children.:

- having a sexual relationship with a child under 18 if in a position of trust in respect of that child, even if consensual (see sections 16 – 19 Sexual Offences Act 2003);
- ‘grooming’ i.e., meeting a child under 16 with intent to commit a relevant offence (see section 15 Sexual Offences Act 2003).
- other ‘grooming’ behaviour giving rise to concerns of a broader child protection nature e.g., inappropriate text / e-mail messages or images, gifts, socialising etc.
- possession of indecent photographs / pseudo-photographs of children.

The Police, Crime, Sentencing and Courts Act 2022 extended the definition of position of trust to include anyone who coaches, teaches, supervises or instructs a child under 18, on a regular basis, in a sport or religion.

In addition, these procedures should be applied when there is an allegation that any person who works with children:

¹ Transferable risk. Where a member of staff or volunteer is involved in an incident outside of school/college which did not involve children but could have an impact on their suitability to work with children. For example, a member of staff is involved in domestic violence at home. No children were involved but schools/colleges need to consider what triggered these actions and could a child in the school trigger the same reaction therefore being put at risk

- has behaved in a way in their personal life that raises safeguarding concerns. These concerns do not have to directly relate to a child but could, for example, include arrest for possession of a weapon.
- as a parent or carer, has become subject to child protection procedures.
- is closely associated with someone in their personal life (e.g., partner, member of the family, or other household member) who may present a risk of harm to child/ren for whom the member of staff is responsible in their employment/volunteering.
- allegations are made against a 16- or 17-year-old who has been put in a position of trust by a school or college in relation to anyone under the age of 18.

Staff and volunteers should feel able to raise concerns about poor or unsafe practice and potential failures in the school safeguarding regime. Whistleblowing procedures are in place for such concerns to be raised with the headteacher (or Chair of Governing Board, if about the headteacher).

To support staff, Children's Services have produced the following guidance

- When you are subject of an allegation
- Where there are concerns about your personal life
- Allegations against Staff and Volunteers – Guidelines for meeting
- Attending a LADO Allegations Management Meeting
- Responding to an allegation or concern

These can all be found on the EGFL at www.egfl.org.uk/ASV

2 Supply teachers & contracted staff

In some circumstances schools we might need to consider an allegation against an individual not directly employed by the school, where disciplinary procedures do not fully apply, for example, supply teachers provided by an employment agency or business (referred to in this section as 'the agency').

Whilst we are not the employer of supply teachers or contractor, we will ensure allegations are dealt with properly. We will not decide to cease to use a supply teacher due to safeguarding concerns, without finding out the facts and liaising with the local authority designated officer (LADO) to determine a suitable outcome. We will liaise with the employer of the supply teacher or contractor. The Governing Board have delegated responsibility to the headteacher to make contact with the agency whether it is appropriate to suspend the supply teacher (or contracted staff), or redeploy them to another part of the school, whilst they carry out their investigation.

Agencies should be fully involved and co-operate in any enquiries from the LADO, police and/or children's social services. The school will usually take the lead because agencies do not have direct access to children or other school staff, so they will not be able to collect the facts when an allegation is made, nor do they have all the relevant information required by the LADO as part of the referral process. Supply teachers, whilst not employed by the school or college, are under the supervision, direction and control of the governing board when working in the school or college. They should be advised to contact their trade union representative if they have one, or a colleague for support. The allegations management meeting which is often arranged by the LADO should address issues such as information sharing, to ensure that any previous concerns or allegations known to the agency are taken into account by the school during the investigation.

3. Governors

If an allegation is made against a governor or associate member of the governing board, and it is substantiated, the school will follow local procedures to consider removing them from office,

4. The difference between an allegation and a 'low-level concern'

The procedures for dealing with allegations will be applied with common sense and judgement. Many cases may well either not meet the criteria set out above or may do so without warranting consideration of either a police investigation or enquires by children's social care. In these cases, local arrangements will be followed to resolve cases without delay.

It might not be clear whether an incident constitutes an 'allegation'. It is important to remember that in order to be an allegation the alleged incident has to be sufficiently serious as to suggest that harm has or may have been caused harm to a child/ren or that the alleged behaviour indicates the individual may pose a risk of harm to children (or otherwise meet the criteria in section 1). Issues that do not meet this threshold may constitute conduct or disciplinary issues and will be addressed by school leaders using the appropriate organisational procedures.

If it is difficult to determine the level of risk associated with an incident the following will be considered:

- Was the incident a disproportionate or inappropriate response in the context of a challenging situation?
- Where the incident involved an inappropriate response to challenging behaviour, had the member of staff had training in managing this?
- Does the member of staff understand that their behaviour was inappropriate and express a wish to behave differently in the future? For example, are they willing to undergo training?
- Does the child or family want to report the incident to the police, or would they prefer the matter to be dealt with by the employer?
- Have similar allegations been made against the employee – is there a pattern developing?

Incidents which fall short of the threshold could include an accusation that is made second or third hand and the facts are not clear, or the member of staff alleged to have done this was not there at the time; or there is confusion about the account.

Whether an incident constitutes an allegation and therefore needs to be dealt with through these procedures, may need to be discussed by the LADO and the DSL. If it falls short of this threshold there may still be a role for the LADO to provide advice and support to the employer.

Where the matter constitutes a conduct or performance issue, the employer should follow the appropriate disciplinary procedures and let the LADO know of the outcome. As a first offence these will usually result in a sanction that is less than dismissal, but dismissal may sometimes be the result depending on the circumstances such as if the misconduct is serious or repeated.

Concerns that do not meet the harm threshold 'low-level concerns'

Low-level-concerns about a member of staff should be reported to the headteacher. If the concern is about the headteacher, it should be reported to the Chair of the Governing Board.

The term 'low-level' concern does not mean that it is insignificant, it means that the behaviour towards a child does not meet the threshold set out in section 1 above. 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:

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

Examples of such behaviour could include, but are not limited to:

- being over friendly with children.
- having favourites.
- taking photographs of children on their mobile phone.
- engaging with a child on a one-to-one basis in a secluded area or behind a closed door; or
- using inappropriate sexualised, intimidating, or offensive language.

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.

When receiving a low-level concern, the low-level concern flow chart, appendix A, will be used to aid decision making.

A record of low-level concerns will be stored securely with access only by the headteacher and DSL. This will be stored in accordance with the school’s data protection policy. The staff member(s) reporting the concern must keep the information confidential and not share the concern with others apart from the headteacher.

Low-Level Concerns will not be referred to in references unless they have been formalised into more significant concerns resulting in disciplinary or misconduct procedures.

5. Initial action by person receiving or identifying an allegation or concern

The person to who an allegation or concern is first reported should treat the matter seriously and keep an open mind. They should not:

- Investigate or ask leading questions if seeking clarification
- Make assumptions or offer alternative explanations
- Promise confidentiality, but they can give assurance that the information will only be shared on a ‘need to know basis’

They should:

- Make a written record of the information (where possible in the child’s own words), including the time, date and place of incident/s, persons present and what was said.
- Sign and date the written record and immediately report the matter to the headteacher (or Chair of Governing Board if about the headteacher).

6. Initial action by the Case Manager

The headteacher, or in situations where the allegation has been made against the headteacher, the Chair of Governing Board will be the case manager. When informed of a concern or allegation,

the case manager will not initially investigate the matter or interview the member of staff, child concerned or potential witnesses. They will:

- Obtain written details of the concern / allegation, signed, and dated by the person receiving (not the child / adult making the allegation).
- Record any information about times, dates and location of incident/s and names of any potential witnesses.
- Record discussions about the child and/or member of staff, any decisions made, and the reasons for those decisions

When an allegation is made the following aspects will be considered:

1. The welfare of the child, The DSL is responsible for ensuring the child is not a risk, and for referring suspected abuse to the LA
2. Investigating and supporting the person subject to the allegation. The case manager will discuss with the LADO, the details of the allegation and agree a course of action.

The LADO will be informed within one working day when allegations appear to meet the criteria listed in section one and prior to any further investigation taking place.

Referrals will not be delayed gathering information. Contact details and a referral form can be found on the Ealing Grid for Learning at: www.egfl.org.uk/ASV

The purpose of an initial discussion is for the LADO and the case manager to consider the nature, content and context of the allegation and agree a course of action. It also alerts the LADO about cases that may also reach them via another route for example if the parent goes straight to the police or social care – allowing the LADO to have as full a picture as possible. To gain an overview the LADO may also want to know details of any previous complaints, any adult witnesses, any child witnesses, any noted injuries, any tensions between staff and parents and a clear idea of the time and location of when issues may have occurred.

This initial sharing of information and evaluation may lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern, in which case this decision and a justification for it should be recorded, by both the case manager and the LADO, and agreement reached as to what information should be put in writing to the individual concerned and by whom. Although the LADO may feel the threshold for a continued investigation has not been met, the school may feel they still have sufficient concerns regarding the individual facing the allegation, in which case they must decide what course of action they want to take, and this may include warnings of a various nature or possible disciplinary action.

The case manager will inform the accused person about the allegation as soon as possible after consulting the LADO. It is extremely important that the case manager provides the LADO with as much information as possible at that time. However, where a strategy discussion is needed, or police or children's social care services need to be involved, the case manager should not share information about the allegation until those agencies have been consulted unless it has already been agreed with the LADO that certain information can be shared.

The LADO will advise the headteacher whether or not informing the parents of the child/ren involved will impede the disciplinary or investigation processes. Acting on this advice, if it is agreed that the information can be fully or partially shared, the employer should inform the parents. In some circumstances, however, the parent/s may need to be told straight away (e.g., if a child is injured and requires medical treatment).

If the allegation is not false and there is cause to suspect that a child is suffering or is likely to suffer significant harm, the LADO will immediately refer to children's social care and ask for a strategy discussion to be convened in accordance with the *Working Together to Safeguard Children*.

Where the case manager is concerned about the welfare of other children in the community or the member of staff's family, they will discuss their concerns with the DSL, and this may lead to a referral to children's social care.

7. Suspension

An individual should only be suspended if there is no reasonable alternative. Suspension should be considered only in a case where there is cause to suspect a child or other children at the school are at risk of harm or the case is so serious that it might be grounds for dismissal. Suspension should not be the default option but if used the reasons and justification should be recorded by the school and the individual notified of the reasons. The strategy meeting may advise a school to suspend but the actual decision will rest with the headteacher or Chair of Governing Board.

Based on assessment risk the following alternatives will be considered by the headteacher before suspending a member of staff:

- redeployment within the school so that the individual does not have direct contact with the child or children concerned.
- providing an assistant to be present when the individual has contact with children.
- redeployment to alternative work in the school so the individual does not have unsupervised access to children.
- moving the child or children to classes where they will not encounter the member of staff, making it clear that this is not a punishment and parents have been consulted.
- temporarily redeploying the member of staff to another school in a different location, for example to an alternative school or college or for the local authority.

8. Strategy Meeting

The meeting will normally include the LADO or their representative, a Child Protection Adviser from Children's services, the headteacher¹ or the DSL or a senior manager from the school, school's HR and depending on the circumstances the police and legal services. Other relevant individuals may be invited depending on the circumstances. If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take into account that teachers and other school staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour.

Where the initial consideration or strategy meeting decides the allegation does not involve a possible criminal offence or require a children's services investigation it will be dealt with by the school. In such cases if the nature of the allegation does not require formal disciplinary action, appropriate action should be instituted within three working days. If a disciplinary hearing is required and can be held without further investigation the hearing should be held within 15 working days.

If the strategy meeting decides a Section 47 enquiry or police investigation is required any unilateral action by the school will need to be suspended, unless otherwise agreed, until their investigations are complete. Protocols for sharing information a police or children's services investigation need to be agreed especially as a common outcome will be to refer the issue back to

¹ Where the headteacher is the subject of the allegation, the Chair of the Governing Board will take part in the strategy meeting instead of the headteacher

the school to consider as a disciplinary issue. The strategy meeting should also consider what support should be provided to the member of staff and others who may be affected and how they will be kept up to date with the progress of the investigation.

Where further investigation is required to inform consideration of disciplinary action the headteacher will discuss who will undertake that with the LADO. In some circumstances it may be appropriate for the disciplinary investigation to be conducted by a person who is independent of the headteacher or the person's line manager to ensure objectivity. In any case the investigating officer should aim to provide a report to the employer within 10 working days.

The following definitions should be used when determining the outcome of allegation investigations:

- **Substantiated:** there is sufficient evidence to prove the allegation
- **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive.
- **False:** there is sufficient evidence to disprove the allegation.
- **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
- **Unfounded:** To reflect cases where there is no evidence or proper basis which supports the allegation being made.

9. Supporting those involved

The Governing Board have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations and disciplinary process. Support for the individual is key to fulfilling this duty. Individuals will be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by the social care services or the police. The individual will be advised to contact their trade union representative, if they have one, or a colleague for support. When appropriate they will also be given access to Workplace Options for support.

The headteacher¹ will appoint a named representative to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual. Particular care will be taken if an employee is suspended to ensure that they are kept informed of both the progress of their case and current work-related issues. Social contact with colleagues and friends must not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

Parents or carers of a child or children involved will be told about the allegation as soon as possible if they do not already know of it. However, where a strategy discussion is required, or police or children's social care services need to be involved, the head will consult those agencies and agree what information can be disclosed to the parents. They will also be kept informed about the progress of the case and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but the parents or carers of the child should be told the outcome in confidence. Parents and carers will also be made aware of the prohibition on reporting or publishing allegations about teachers in section 141F of the Education Act 2002.

¹ Or CoG where the headteacher is the subject of the allegation

10. Confidentiality

It is extremely important that when an allegation is made, the school makes every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.

Leaders will take advice from the LADO, police, and local authority social care services to agree the following:

- Who needs to know and, importantly, exactly what information can be shared.
- How to manage speculation, leaks, and gossip.
- What if any information can be reasonably given to the wider community to reduce speculation; and
- How to manage press interest if and when it should arise.

11. Resignations and Settlement agreements

The fact that a person tenders his or her resignation or ceases to provide their services must not prevent an allegation being followed up in accordance with these procedures. By the same token settlement agreements, by which a person agrees to resign if the school agrees not to pursue disciplinary action, must not be used in these cases. **A referral to the DBS must be made if the criteria are met.**

12. Record Keeping and Learning Lessons

Details of allegations that are found to have been malicious¹ will be removed from personnel records. 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 any action taken, and decisions reached, is kept on a person's confidential personnel file, and a copy provided to the person concerned.

The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS Disclosures reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary reinvestigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record should be retained at least until the person has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

For all cases where the allegation is concluded to be either substantiated, unfounded, false, malicious or unsubstantiated the case manager and the LADO (if involved) should consider the facts and determine whether any lessons can be learned and if improvements can be made.

13. References

Cases in which an allegation was proven to be unsubstantiated, unfounded, or malicious² must not be included in employer references. A history of repeated concerns or allegations which have all been found to be unsubstantiated, malicious etc. must also not be included in any reference.

¹ See section 8 for definitions of malicious

² See section 8 for definitions of unsubstantiated, unfounded, or malicious

Substantiated allegations should be included in references provided the information is factual and does not include opinions.

14. Information sharing

In a strategy discussion or the initial evaluation of the case, the agencies involved should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.

Where the police are involved, wherever possible the employer should ask the police to obtain consent from the individuals involved to share their statements and evidence for use in the employer disciplinary process. This should be done as their investigation proceeds and will enable the police to share relevant information without delay at the conclusion of their investigation or any court case.

Children's social care services should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are in need or protection or services, so that any information obtained during those enquiries which is relevant to a disciplinary case can be passed to the employer without delay.

15. Action following a criminal investigation or a prosecution

The police or the Crown Prosecution Service (CPS) should inform the school and LADO straight away when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to continue to prosecute the case after person has been charged. In those circumstances the LADO should discuss with the headteacher, and Chair of Governing Board whether any further action, including disciplinary action, is appropriate and, if so, how to proceed.

16. Action on conclusion of a case

If the allegation is substantiated and the person is dismissed or the school ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the LADO and the school should discuss whether a referral to the Disclosure and Barring Service (DBS) for consideration of inclusion on the barred lists and /or (for teachers) to the Department of Education is needed.

There is also a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child or if a person otherwise poses a risk of harm to a child. In such circumstances, the duty to refer an individual to the DBS arises where an employer has removed the individual from relevant work with children or the person has chosen to cease relevant work in circumstances where they would have been removed had they not done so. Professional misconduct cases should be referred to the relevant regulatory body. The DBS will consider whether to bar the person from working in regulated activity, which will include work in schools and other educational establishments. Local authorities & schools and other bodies all have a statutory duty to make reports, and to provide relevant information to the DBS. Referrals should be made as soon as possible after the resignation or removal of the member of staff involved and within one month of ceasing to use the person's services.

17. In respect of malicious or unsubstantiated allegations¹

If an allegation is determined to be unsubstantiated or malicious, the LADO should refer the matter to the children's social care services to determine whether the child concerned is in need of services or may have been abused by someone else. If an allegation is shown to be deliberately invented or malicious, the headteacher, principal or proprietor should consider whether any disciplinary action is appropriate against the pupil who made it; or whether the police should be asked to consider if action might be appropriate against the person responsible, even if he or she was not a pupil.

¹ See section 8 for definitions of malicious or unsubstantiated allegations

Appendix A – Decision making process, receiving a low-level concern

