



Managing Allegations Against Staff and Low-Level Concerns Policy

Safeguarding procedures for managing allegations against staff within schools and education services

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Contents

Section		Page
1	Accompanying Documents and Definitions	3
2	Introduction	4
3	Reporting an Allegation or Concern	4
4	Reporting Process	5
5	Response to a concern or allegation against a member of staff	5
6	Timescales	6
7	Low-Level Concerns	6
8	Allegations	8
9	Outcome of an allegation following investigation	10
10	Considering whether suspension is appropriate	11
11	Confidentiality	13
12	Recording	14
13	Disciplinary Investigation (Factors to consider in line with the ESW Disciplinary Policy)	15
14	Referral to the Disclosure and Barring Service	16
15	Resignation and Settlement Agreements	16
16	Managing Allegations against Supply teachers and all Contracted staff	16
17	Managing Allegations against organisations or individuals using school premises	17
18	Supporting those involved	17
Appendix A	Low-Level Concern/Allegation Report Template	18
Appendix B	Managing Allegations Flowchart	19

1. Accompanying Documents and Definitions

1.1 The policy should be read in conjunction with the following documents and policies:

- [Keeping Children Safe in Education Part 1](#) (updated annually)
- [Working Together to Safeguard Children 2023](#)
- [Information Sharing \(HM Govt July 2018\)](#)
- [ESW Code of Conduct Policy](#)
- [ESW Disciplinary Policy](#)
- Behaviour Policy (each school has its own policy)
- Anti-Bullying Policy (each school has its own policy)

1.2 Definitions:

- **DSL** – Designated Safeguarding Lead. The DSL must be a member of the school's senior leadership team who is responsible for leading the school's approach to safeguarding
- **Staff** – staff are all those adults in the school/Trust who are employed to work with young people. This includes volunteers, coaches, contractors, governors, trustees and anyone else working with children in an ESW school.
- **Volunteers** – those adults who work within the school supporting the education, safety or wellbeing of students at the school
- **Low level concern** – A 'low level concern' is any concern – no matter how small, and even if no more than causing a sense of unease or 'nagging doubt', that an adult working with children may have acted towards children, or which could impact on children, in a way that:
 - Is inconsistent with the organisations (ESW) staff code of conduct, including inappropriate conduct outside or work; and
 - Does not meet the threshold of harm; or is otherwise not serious enough to merit a referral to the LADO
 - Whilst there is no exhaustive list of examples of behaviour that may be considered 'low level', the NSPCC have provided the following guidance:
 - Being over friendly with children
 - Having favourites
 - Adults taking photographs of children on their mobile phone or personal device
 - Engaging with a child on a one-to-one basis in a secluded area or behind a closed door
 - Humiliating children
 - Using inappropriate sexualised, intimidating or offensive language

Further information and guidance can be found in the [ESW Code of Conduct for Employees Policy](#)

- **Allegation** – the identification of an issue in relation to the behaviour of a member of staff/volunteer that might or does meet the threshold of harm
- **Threshold of Harm** – The threshold of harm (as outlined in Keeping Children Safe in Education) is where a member of staff/adult has:
 - Behaved in a way that has harmed a child, or may have harmed a child; and/or
 - possibly committed a criminal offence against or related to a child; and/or
 - behaved towards a child or children in a way that indicates they may pose a risk of harm to children; and/or
 - behaved or may have behaved in a way that indicated they may not be suitable to work with children (this includes transferable risk – behaviour outside of school that might make an individual unsuitable to work with children)

Examples of what might constitute meeting the threshold of harm include (but is not limited to):

- Following a child on social media
- Liking a child's social media post and commenting that they looked 'nice in (their) jeans'
- Exchanging private messages with a child suggesting to meet up outside of school
- Giving a child a lift in their car (when not part of a school arranged activity)
- Discussing their personal life with a child
- Providing a pupil with medication (where this behaviour is not part of the role they are employed to carry out)
- Giving their personal email address to a child
- Failing to report a safeguarding concern about a child
- **LADO – Local Authority Designated Officer.** The LADO is contacted where a concern/allegation is considered to meet the threshold of harm (as outlined in Keeping Children Safe in Education)

2. Introduction

- 2.1 This policy applies to all Educations South West (ESW) schools. ESW prioritises the safety and wellbeing of all young people and actively promotes an open and positive culture where concerns about the conduct and behaviour of staff and adults who work within the Trust can be identified and communicated openly. This is a key element of a strong safeguarding system.
- 2.2 This policy seeks to ensure that all staff and volunteers who work with children behave appropriately and to enable the early identification and prompt and appropriate management of concerns.
- 2.3 As part of their whole school approach to safeguarding, all ESW schools must ensure that they promote an open and transparent culture in which all concerns about all adults working in or on behalf of the Trust (including supply teachers, volunteers and contractors) are dealt with promptly and appropriately. Creating a culture in which all concerns about adults are shared responsibly and with the right person, recorded and dealt with appropriately, is critical. If implemented correctly, this should 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 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 and Trust.

3. Reporting an allegation or a concern

- 3.1 This document sets out the policy for dealing with concerns or allegations against staff. The policy also applies to volunteers and contractors in school, hence all references to staff can be taken to apply equally to those individuals. When a concern or allegation of harm is made against an employee on behalf of a child there should be immediate consideration of whether a child or children is/are at risk of significant harm and in need of protection. Where this is the case, the safeguarding of the child takes priority and immediate steps must be taken to ensure that the child is protected from any further harm or risk of harm.
- 3.2 Anyone who becomes aware of a possible concern, allegation, breach of position of trust and or professional conduct issue must take immediate steps to ensure the matter is reported to the Headteacher (or Deputy, if unavailable) who will immediately inform the CEO and Trust Safeguarding Lead. An investigation may be impeded if a concern is reported late and/or is communicated through several individuals before Headteacher and it is important that each school establishes at this stage who the lead contact will be for liaison purposes.
- 3.3 Should the allegation or concern involve the Headteacher then the matter must be reported to the Chief Executive Officer. If the allegation is against the Chief Executive Officer, then the

matter should be reported to the Chair of the Board of Trustees. In subsequent paragraphs, the CEO and the Chair of the Board can be substituted for the Headteacher in the case of allegations against the Headteacher and CEO respectively, unless otherwise indicated

3.4 Anonymity

- Where requested and wherever possible, the school will respect the anonymity of the reporting person
- However, there may be circumstances where the staff member/volunteer who raises the concern will need to be named (for example, where it is necessary in order to carry out a fair disciplinary process) and, for this reason, anonymity cannot be promised to members of staff/volunteers

3.5 Self-Reporting

- Occasionally, a member of staff or volunteer may find themselves in a situation which could be misinterpreted or might appear compromising to others
- In these situations, staff/volunteers are encouraged to self-report (where they are involved in a situation which would be deemed as a breach of the ESW Code of Conduct)
- Self-reporting can be positive for a number of reasons:
 - It is self-protective in that it enables a potentially difficult issue to be addressed at the earliest opportunity
 - It demonstrates an awareness of the expected behavioural standards
 - It is an important means of maintaining a culture where all staff and volunteers aspire to the highest standards of conduct and behaviour

4. Reporting Process

- 4.1 Concerns/Allegations can be reported verbally, but they should always be ultimately recorded on the ESW Concerns/Allegations Form in Appendix A
- 4.2 All concerns should be responded to sensitively and in a proportionate way demonstrating that such concerns will be handled promptly and effectively whilst protecting staff from any potential false low-level concerns or misunderstandings

5. Response to a concern or allegation made against a member of staff

- 5.1 When a concern or allegation against a member of staff is received by the Headteacher, they should immediately consider if the concern/allegation is capable of meeting the harm threshold (see section 1.2.6). This is not the same as determining whether the allegation/concern is proven but an initial decision is required to establish if the allegation/concern is sufficiently serious that it could meet the harm threshold. Where there is any doubt on whether the harm threshold will be met, the Headteacher should consult the LADO.
- 5.2 Where it is considered that the concern/allegation does not meet the threshold of harm, then the matter should be managed as a Low-Level concern (see section 7)
- 5.3 Where it is considered that the concern/allegation does meet the threshold of harm, then the matter should be managed as an Allegation (see section 8)

6. Timescales

- 6.1 DfE guidance states that *“the quick resolution of the allegation should be a clear priority to the benefit of all concerned. Any unnecessary delays should be eradicated.”*
- 6.2 Where the initial assessment of the concern/allegation does not indicate the threshold of harm will be met (therefore the case will be treated as a Low-Level Concern) then the Headteacher should institute the appropriate action within **3 working days**.
- 6.3 Where the initial assessment of the concern/allegation indicates that the threshold of harm has been met, then:
- The Headteacher must make a referral to the LADO **within 24 hours of being notified of the allegation**
 - The LADO must make contact with the Headteacher **within 24 hours of the referral**
 - The Headteacher should refer to Section 8 of this policy for further guidance

7. Low Level Concerns

- 7.1 The term ‘low level concern’ does not mean that it is insignificant. Early identification and prompt management of all concerns about the behaviour of adults who work or volunteer with children is critical to effective safeguarding. Keeping Children Safe in Education requires low level concerns to be shared
- 7.2 Low level concerns should be shared in the same way as any other concern, following the process set out on Sections 3 and 4:
- To ensure there is a formalised mechanism for reporting low level concerns;
 - To allow staff to self-report to the school to protect themselves in situations where they may have found themselves compromised;
 - To identify patterns of behaviour that are concerning;
 - To ensure the school continues to have a culture of safeguarding in which all staff understand their responsibilities to raise concerns.
- 7.3 Staff should therefore:
- Report the behaviour by another adult towards a child that has concerned them
 - Self-report in any situation where they feel their behaviour towards a child could be misinterpreted or misconstrued or leave them vulnerable
- 7.4 Upon receipt of the Low-Level concern, the Headteacher will:
- Decide if an investigation under the ESW Disciplinary Policy is appropriate
 - request a written copy of the concern (if not already completed) and speak to the person raising the concern to confirm the details
 - speak to any potential witnesses and ask them to record their observations
 - review the information and determine whether:
 - the behaviour is in fact appropriate (i.e., consistent with the staff code of conduct and the law)
 - the behaviour constitutes a low-level concern (see 1.2.4)

- there is any doubt as to whether the information which has been shared as a low-level concern in fact may meet the harm threshold (see 1.2.6) in which case they will contact the LADO
- in and of itself the behaviour may meet the harm threshold (see 1.2.6) and therefore should be referred to the LADO
- when considered with any other low-level concerns that have previously been shared about the same individual, the behaviour may meet the harm threshold (see 1.2.6) and should be referred to the LADO

7.5 Outcomes of investigations into Low-Level Concerns

Outcome	Actions
The behaviour is in fact appropriate (i.e., consistent with the staff code of conduct and the law)	<ul style="list-style-type: none"> • The headteacher will update the individual in question and inform them that there is no further action • The headteacher will speak to the person who shared the concern and provide them with feedback about why the behaviour is consistent with the Code of Conduct
The behaviour constitutes a low-level concern	<ul style="list-style-type: none"> • An investigation of low-level concern should be carried out discreetly and, on a need to know basis • Low level concerns are likely to be minor and therefore may not require further action • Consider whether the concern needs to be managed under the Disciplinary Policy • Where appropriate, concerns can be dealt with by means of management guidance and/or training • The headteacher will hold a meeting with the member of staff that is likely to focus on what change is required in their behaviour, what support (if any) they may need in order to support the change and clarity over what the consequences are if they fail to reach the required standard or repeat the behaviour in question. • A risk assessment or action plan may be appropriate in order to regularly review the actions. • The headteacher will speak to the person who shared the concern and explain that the concern is being addressed by the school and that, whilst the school is unable to outline the details of actions that are to be taken, an investigation has taken place and actions have been taken in line with this policy.
The behaviour may meet the harm threshold or when considered with any other low-level concerns that have previously been shared about	<ul style="list-style-type: none"> • The headteacher (or DSL) will refer the concern to the LADO and take the appropriate actions in line with section 8 of this policy

the same individual, the behaviour may meet the harm threshold	<ul style="list-style-type: none"> The headteacher will speak to the person who shared the concern and explain that the concern is being addressed by the school and that, whilst the school is unable to outline the details of actions that are to be taken, an investigation has taken place and actions have been taken in line with this policy.
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7.6 Recording the outcomes of Low-Level Concerns – see section 12

8. Allegations

- 8.1 It is important that the reporting person acts quickly. Establishing whether an allegation warrants further investigation or consultation is not the same as forming a view on whether the allegation is to be believed. The Headteacher or any other employee or Director to whom an allegation has been reported, is not expected to investigate the allegation, or interview pupils, but to assess, after consultation with the LADO, how the matter will proceed. Confidentiality must be maintained throughout this stage in order that any subsequent investigation is not prejudiced and that the interests of all parties are protected.
- 8.2 Where the allegation relates to the use of physical intervention to restrain a pupil (Section 93 of the Education and Inspections Act 2006 enables school staff to use such force as is reasonable to keep a situation safe), the Headteacher should refer to the County LADO Service as in all other cases and a subsequent discussion will be held about whether this may be appropriately managed within the school.
- 8.3 A Case Manager should be appointed. The case manager is likely to be the Headteacher themselves unless the allegation relates to them. Where this is the case, the Case Manager is likely to be the CEO of the Trust. Where the allegation relates to the CEO, then the Case Manager will be the Chair of the Board of Trustees
- 8.4 Where the Case Manager identifies that a child is suffering harm, that there may be an immediate risk of harm to a child or if the situation is an emergency, they should¹ contact the local authority children's social care and, as appropriate, the police immediately. Where this is the case, the Case Manager will involve the DSL to ensure that the appropriate steps are taken to protect the welfare of the child.
- 8.5 In all cases where the Headteacher believes that the allegation or concern meets the Threshold of Harm (see section 1.2.6), the Headteacher/Case Manager must refer to the County LADO Service within 24 hours of allegation being made who will advise on further action in accordance with this procedure as appropriate. The process in Devon requires referrers to complete an online referral form (found [here](#)). The LADO will contact the referrer within 24 hours of the referral being received. This is not the beginning of an investigation, but part of the basic information gathering process. This advice will include who should be made aware that an allegation or concern has been raised. In Devon, the initial information required by the LADO includes:
 - The number of individuals involved in allegedly breaching the threshold of harm
 - The number of children who have allegedly been harmed or at risk of harm

¹ 'should' for the purposes of this policy falls under the definition outlined in Keeping Children Safe in Education "when the advice set out should be followed unless there is a good reason not to".

- The name, address, job title, employment status, work place address, length of time in role and any previous concerns regarding each of the individuals alleged to have breached the threshold of harm
 - Details of the allegation including location of harm (considering the transferable risk), dates and times of the allegation referral and details of the incident(s) itself
 - The referrer's details
- 8.6 The LADO will consult with the case manager to offer an initial evaluation of the allegation and provide advice and guidance on the most appropriate way of managing the allegation. This will include whether it meets the criteria for LADO involvement.
 - 8.7 The Headteacher must ensure that the Trust's HR Associate is made aware of the allegation promptly in order for them to provide advice regarding issues of process, responsibilities and communication.
 - 8.8 When to notify the individual(s) against whom the allegation has been made needs to be carefully considered on a case-by-case basis (so as not to prejudice any future internal or external investigation). The LADO will provide guidance on when and how to inform the individuals against whom the allegation has been made. Further information on this can be found [here](#).
 - 8.9 Where the LADO advises that no further action is required, the decision should be recorded and justified in line with section 12 of this policy
 - 8.10 Where further action is required, the LADO will advise on the next steps. This may include at this point and where the allegation is against a member of staff, suspension of those members of staff to which the allegation has been made. See section 10 in regards of "Considering whether suspension is appropriate"
 - 8.11 The Case Manager should appoint an Investigating Officer who should be a senior member of school staff to carry out the investigation. Where staffing conditions within the school are such that no other senior member of staff is available to conduct the investigation, this should be discussed with the LADO and CEO of the Trust.
 - 8.12 The Investigating Officer will follow the advice of the LADO when conducting the investigation. Throughout the investigation the Case Manager should monitor the progress and review the investigation at regular periods with the Investigating Officer (seeking further guidance from the LADO as appropriate). The investigation should be dealt with as quickly as possible in a thorough and fair process. The first review of the of the investigation should take place no later than four weeks after the initial referral. Subsequent reviews should be carried out fortnightly where the investigation continues.
 - 8.13 It may be appropriate to carry out the investigation under the ESW Disciplinary Policy. This should be discussed with the CEO of the Trust and the LADO before commencing the investigation.
 - 8.14 The progress of the investigation may be affected by a Police investigation and/or a strategy meeting lead by Children's Social Care. Under these circumstances, the LADO will advise the Case Manager and Investigating Officer in regards of next steps.

9. Outcome of an Allegation following investigation

Outcome	Actions
<p>Substantiated</p> <p>There is sufficient evidence to prove the allegation</p>	<ul style="list-style-type: none"> The school must consider any multi agency involvement and outcomes of their investigations. The LADO will advise the Headteacher in such circumstances Headteachers should now follow actions in line Section 13 of this policy and the ESW Disciplinary Policy Section 8 onwards. Schools should also consider the statutory guidance in Keeping Children Safe in Education 2024 406 - 429 Where suspension of the employee has not yet been implemented, this decision should be reviewed in light of the outcome Headteachers should consider their mandatory legal obligation to refer to DBS² A referral to the TRA should be considered with justification recorded³ Outcome is recorded and evidence stored in line with section 12. Justification of the decision must be clear in the evidence records Future references for the employee must include the facts of substantiated harm threshold allegations⁴
<p>Malicious</p> <p>There is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive or cause harm to the person subject of the allegation</p> <p>False</p> <p>There is sufficient evidence to disprove the allegation</p> <p>Unsubstantiated</p> <p>There is insufficient evidence to either prove or disprove the allegation. This term does not imply guilt or innocence</p> <p>Unfounded</p>	<ul style="list-style-type: none"> The Headteacher should inform the person subject to the investigation of the outcome of the investigation and provide them with any support they may need including returning to work (where applicable)⁵ Where the allegation is Malicious, the Headteacher should consider, where the allegation was brought forward by a member of staff, whether that person should face any action under the ESW Disciplinary Policy Where a Malicious allegation was raised by a child, the Headteacher, Investigating Officer, LADO and DSL should consider whether the child is in need of help or may have been abused by someone else and this was a cry for help. In these circumstances a referral to Children's Services may be appropriate. Where allegations are unsubstantiated or unfounded headteachers should consider (in consultation with

² Keeping Children Safe in Education 2024 Para 410

³ Keeping Children Safe in Education 2024 Para 409

⁴ Keeping Children Safe in Education 2024 Para 426

⁵ Keeping Children Safe in Education 2024 Para 415

To reflect cases where there is no evidence or proper basis which supports the allegation being made	<p>the LADO and CEO) whether the allegation should also be considered under the ESW Disciplinary Policy</p> <ul style="list-style-type: none"> • Outcome is recorded and evidence stored in line with section 12. Justification of the decision must be clear in the evidence records
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10. Considering whether suspension is appropriate

- 10.1 Suspension should not be an automatic response when an allegation is reported. All options to avoid suspension should be considered prior to taking that step. It should only be considered in cases where there is cause to suspect a child or other children at the school is/are at risk of harm, or the case is so serious that there might be grounds for dismissal. Where there is doubt, the Case manager should seek the views of the CEO of the Trust and LADO as well as the police and Children's Services where they are involved.
- 10.2 The decision to suspend is taken by the Headteacher in consultation with the CEO (who will liaise with the Trust's HR Director) and not by any external agency. However, Social Care, in collaboration with other agencies, may advise the Trust and the school of any action recommended to ensure the protection of children, protection of employees and safeguarding of information.
- 10.3 The suspension of an employee, particularly in situations of potential child protection allegations will have a significant impact on the individual and therefore it is essential that the facts of the case, as they are known, and alternative courses of action are carefully considered in deciding whether to suspend. The specific arrangements for the suspension of staff are set out in the Trust's disciplinary procedures, but it should be recognised that suspension is a neutral act to protect the interests of both parties and not an assumption of guilt. It is also essential that the Disciplinary Procedures are followed in terms of providing appropriate support to the individual throughout the period of suspension.
- 10.4 Being suspended or asked to refrain from work can give rise to great anxiety for the individual subject to the allegations. They may fear that colleagues and others within the school/community will have interpreted the very act of suspension as an indicator of presumed guilt from an early stage and may feel particularly isolated and vulnerable.
- 10.5 Any member of staff subject to an allegation should be encouraged to seek advice and support at the earliest opportunity from their professional association or trade union. It must also be acknowledged that the whole school/community may be affected by a staff member's suspension, and consideration should be given to necessary support strategies to address this.
- 10.6 The need for support is equally applicable when considering a staff member's return to work. Suspension should be retained for as short a length of time as possible and if it is agreed that a staff member is to return to school/work, careful planning needs to take place as to how this situation can be managed as sensitively as possible.
- 10.7 Initial considerations - It may not be immediately obvious that suspension should be considered, and this course of action sometimes only becomes clear after information is shared with, and discussion had, with other agencies. In some cases, early or immediate suspension may impede a Police investigation, and therefore the decision whether to suspend may have to be delayed until sufficient evidence has been gathered. Suspension should be avoided in such cases wherever possible and should not be seen as an automatic response to an allegation. This applies to the possible suspension of Headteachers as well as other staff. In some cases, early or immediate suspension may impede a Police investigation,

and therefore the decision whether to suspend may have to be delayed until sufficient evidence has been gathered.

10.8 When considering suspension, it is important to have regard to the following factors:

- The nature of the allegation
- Assessment of the presenting risk
- The context in which the allegation occurred
- The individual's contact with children
- Any other relevant information
- The power to suspend
- Alternatives to suspension

10.9 Suspension should only be applied if one or more of the following grounds apply:

- A child or children would be at risk
- The allegation is so serious that summary dismissal for gross misconduct is possible
- It is necessary to allow any investigation to continue unimpeded

10.10 Alternatives to suspension may be deployed following a risk analysis undertaken in consultation with the Trust HR lead and the LADO. While weighing the factors as to whether suspension is necessary, available alternatives to suspension should be considered. This should include consideration of the potential permanent professional reputational damage to employees that can result from suspensions where an allegation is later found to be unfounded, unsubstantiated, malicious or false. Alternatives to suspension may be achieved following a risk analysis undertaken in consultation with the Trust HR Lead, CEO of the Trust and LADO by:

- Leave of absence
- Undertaking different duties which do not involve direct contact with the individual child or other children
- Providing an assistant or other colleague to be present throughout contact time.
- moving the child or children to classes where they will not come into contact with the member of staff, but this decision should only be made if it is in the best interests of the child or children concerned and takes account of their views. It should be made clear that this is not a punishment and parents have been consulted
- temporarily redeploying the member of staff to another role in a different location, for example to an alternative school or college or where available, work for the local authority or academy trust

If the member of staff is not based in a school, then an alternative may be to:

- Undertake office duty
- Undertake non-contact tasks only

10.11 If immediate suspension is considered necessary, the case manager should record the rationale and justification for such a course of action. This should include what alternatives to suspension have been considered and the reasons why they were rejected.

10.12 Where suspension of the employee is applicable, the Headteacher should follow the guidance in the ESW Disciplinary Policy section 7

10.13 Action Plan

- The Children Act 1989 established the principle that the interests of the child are paramount. This, however, must be considered alongside the duty of care to staff. Any individual subject to allegations should, regardless of the decision to suspend or otherwise, be offered welfare support. Where possible, a means of monitoring the take up and effectiveness of welfare support without compromising confidentiality or trust should be sought. Where suspension is being considered, the duty of care requires the Headteacher to ensure that appropriate support is available to the member of staff through consultation with the Trust's HR Director. In the case of an allegation against the Headteacher, this responsibility lies with the CEO. Agreement must be reached with the Trust's HR Director (and police where appropriate) as to how information will be shared and contact maintained with the member of staff throughout the investigative process. This should include agreement as to:
 - How the member of staff will be kept updated about the progress of the investigation,
 - How support and counselling are to be offered: and
 - How links will be maintained with the school so that the staff member is kept informed of other matters occurring within the school.

11. Confidentiality

- 11.1 In the initial assessment 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
- 11.2 Where the police are involved, wherever possible the school should ask the police to obtain consent from the individuals involved to share their statements and evidence for use in the employer's disciplinary process. This should be done as their investigation proceeds and will enable the police to share relevant information without delaying the conclusion of their investigation or any court case.
- 11.3 Local authority children's social care should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are in need of protection or services, so that any information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to the school without delay.
- 11.4 The school must make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2011 amended the Education Act 2002, to introduce reporting restrictions. These provisions made it an offence (except in the limited circumstance expressly permitted by the legislation), for any person to publish any material that may lead to the identification of a teacher in a school who has been accused by, or on behalf of, a child from the same school (where that identification would identify the teacher as the subject of the allegation).
- 11.5 The reporting restrictions apply until:
- the point that the 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 the allegation

- 11.6 The reporting restrictions are disapplied if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a court lifts the reporting restrictions in response to a request to do so.
- 11.7 The legislation prevents the “publication” of material by any person that may lead to the identification of the teacher who is the subject of the allegation. “Publication” includes “any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public.” This means that a parent who, for example, published details of the allegation on a social networking site would be in breach of the reporting restrictions (if what was published could lead to the identification of the teacher by members of the public). In circumstances where the school need to make parents aware about an allegation, they should make parents and others aware that there are restrictions on publishing information.
- 11.8 The case manager should take advice from the LADO, the police and local authority children’s social care to agree the following:
- who needs to know and 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 the press interest if, and when, it should arise.

12. Recording

- 12.1 It is essential to record the decisions reached and the rationale behind them. Records should also be made of the agreed action and strategies to manage the situation. Records should be kept by the headteacher or CEO.
- 12.2 ESW provide a template for recording allegations, low level concerns and complaints. Whilst Headteachers are not required to use this template, they must keep accurate records of all allegations and low-level concerns.
- 12.3 In cases of low-level concern, records should show the details of the concern, the context in which the concern arose and any action taken. The name of the individual raising the concern should also be recorded although their wish for anonymity must be respected as far as is reasonably possible⁶. ESW schools will retain records of low-level concerns until the employee leaves the organisation.
- 12.4 In cases where an allegation is found to be malicious or false, the details of the allegation should be removed from the personnel records unless the individual gives their consent for retention of the information.
- 12.5 In cases where the allegation is substantiated, unfounded or unsubstantiated, a record must be kept on the file for the accused person that includes:
- A clear and comprehensive summary of the allegation/concern
 - Details of how the allegation/concern was followed up and resolved
 - A note of any action taken, decisions reached and the outcome

⁶ Keeping Children Safe in Education 2024 Para 444

- In the case of an allegation only, a copy provided to the person concerned, where agreed by the local authority children's social care or the police
- A declaration on whether the information will be referred to in any future reference

12.6 Any evidence collected as part an investigation must be kept securely by the Headteacher

13. Disciplinary Investigation (Factors to consider in line with the ESW Disciplinary Policy)

- 13.1 No action under the disciplinary procedure should be taken in circumstances which might interfere with the criminal investigation. Child protection and criminal investigations shall be treated as paramount and any further action under disciplinary procedures may therefore have to await full completion of the child protection and criminal investigations but will be undertaken as soon as possible.
- 13.2 Once any child protection investigation has been completed and the matter is not proceeding to court, a decision should be taken by the Headteacher and CEO, as to whether investigate under the disciplinary procedures. The school will need to liaise with the Trust's HR Associate prior to reaching a decision on this.
- 13.3 At the request of the CEO, a nominated representative may be appointed to conduct the investigation where it is inappropriate for the Headteacher or other member of the school's leadership group to do so, e.g., where the Headteacher knowledge might prejudice a fair hearing, where he/she is implicated or when the CEO believes it is in the best interests of the school.
- 13.4 Where allegations of child abuse are received against an employee at the school, the LADO will take responsibility for ensuring that relevant information, as defined by the Police, resulting from a child protection investigation is made available to the Headteacher in order to inform a decision about a possible disciplinary investigation.
- 13.5 Evidence derived from the child protection investigation or criminal investigation (e.g., statements, exhibits, video-recorded interviews with children) can be requested for use in subsequent disciplinary proceedings, particularly where the witnesses are the same, via relevant legal departments. (It should be noted that the Branch Crown Prosecutor will be cautious about releasing any prosecution material until the criminal proceedings have been concluded and will only consider doing so upon a valid request being made in writing.)
- 13.6 Whether it is appropriate to call children as witnesses will depend on their age, understanding and capability. However, the attendance of children at any hearing would be in extremely unusual circumstances and will only occur following careful consultation with all interested parties including the parents of the child/ren.
- 13.7 If a decision is taken to proceed with a disciplinary investigation, the employee should be informed, in writing, as required under the disciplinary procedure. It is advisable to confirm this position in a meeting with the employee and their representative. The Trust's HR Associate will compose the letter in consultation with the Headteacher.
- 13.8 If a decision is taken not to proceed with a disciplinary investigation, the employee should be invited to a meeting with the option of being accompanied by a union representative or workplace colleague, to explain the circumstances of the decision and confirm this in writing. This meeting will be facilitated by the Headteacher who will be supported by the Trust's HR Associate.
- 13.9 The school will need to make appropriate arrangements to notify the parent/guardian of the child/ren of the outcome of the investigation/hearing and will take advice from the Trust HR lead and the County LADO Service regarding the nature of information that can be disclosed.

14. Referral to the disclosure and barring service

- 14.1 The Secretary of State's powers to bar or restrict a person's employment are contained in section 142 of the Education Act 2002. The relevant regulations, setting out the procedure to be followed now sit under the Vulnerable Groups Act 2006 (List 99 was replaced by the ISA Barring list which in turn has now been replaced by the Disclosure and Barring Service)
- 14.2 A relevant employer, or agent (e.g. a teacher supply agency), is required to provide a report to the DBS where they cease to use a person's services, or a person is dismissed or resigns before a disciplinary process is completed, because they are considered unsuitable to work with children, as a result of misconduct, or because of a medical condition that raises a possibility of risk to the safety or welfare of children. A compromise agreement does not override the statutory duty to report the matter and such an arrangement should not be considered if the concern was of a safeguarding nature.
- 14.3 This document sets out the policy for dealing with allegations against staff. The policy also applies to volunteers in school, hence all references to staff can be taken to apply equally to volunteers. They also apply to staff convicted of a criminal offence against children outside the work setting when notification may be through the police.
- 14.4 Further information on the Disclosure and Barring Service and the process of referral to the barring list can be found at www.homeoffice.gov.uk/dbs

15. Resignations and Settlement Agreements

- 15.1 A settlement agreement⁷ is not permitted where an allegation indicates that the person is a risk or poses a risk of harm to children or they are deemed not suitable to work with children
- 15.2 If the person subject to an allegation resigns, leaves or ceases to provide their services, the school must continue with entire process of the investigation to conclusion.
- 15.3 Where possible, the accused should be given full opportunity to answer the allegation and make representations about it. Further information can be found in Keeping Children Safe in Education 2024 Para 418 - 421

16. Managing Allegations against Supply teachers and all contracted staff

- 16.1 Whilst schools are not the employer of supply teachers or contracted staff, they are expected to ensure that allegations are dealt with properly. Under no circumstances should a supply teacher or contracted staff member cease to be employed by the school without finding out the facts and liaising with the LADO to determine a suitable outcome.
- 16.2 The school will retain responsibility for the investigation of an allegation (in line with this policy) as, for example, supply agencies would not have access to witnesses and information where the allegation arose.
- 16.3 Persons against who the allegation has been made should be advised to contact their trade union representative (if they have one) or a colleague for support
- 16.4 When using a supply agency, schools will inform the agency of the process for managing allegations but also take account of the agency's policies and the duty placed on agencies to refer to the DBS as personnel suppliers. This will include inviting the agency's human resource manager or equivalent to meetings and keeping them up to date with information about its policies.

⁷ 'Settlement agreements' (sometimes referred to as compromise agreements), by which a person agrees to resign if the employer agrees not to pursue disciplinary action and both parties agree a form of words to be used in any future reference – Keeping Children Safe in Education 2024 Para 416

17. Managing allegations against organisations or individuals using school premises

- 17.1 Schools may receive an allegation relating to an incident that happened when an individual or organisation was using their school premises for the purposes of running activities for children (for example community groups, sports associations, or service providers than run extra-curricular activities). As with any safeguarding allegation, the school will follow the safeguarding policies and procedures, including informing the LADO.

18. Supporting those involved

- 18.1 The welfare of a child is paramount and this will be the prime concern in terms of investigating an allegation against a person in a position of trust. However, when an allegation is being investigated it is likely to be a very stressful experience for the adult subject to the investigation, and potentially for their family members.
- 18.2 ESW schools will provide welfare support through the counselling service provided to all staff members alongside advising the employee to seek support from their Trade Union (if they belong to one). Information is confidential and should not normally be shared with other staff or with children or parents who are not directly involved in the investigation.
- 18.3 ESW schools have a duty of care to their employees and will, wherever is reasonably possible:
- Manage and minimise the stress caused by the allegation
 - Inform the individual as soon as possible, explaining the likely course of action, guided by the LADO and the police where necessary
 - Appoint a named representative to keep the person informed of the process
 - Provide access to counselling or medical advice where appropriate.
 - Not prevent social contact with work colleagues and friends, when staff are suspended, unless there is evidence to suggest that this may prejudice the gathering of evidence.
- 18.4 Parents or carers of the child or children involved will be:
- Formally told about the allegation as soon as possible⁸. The case manager should consult the LADO and, where involved children's services and/or the police, on what information can be disclosed
 - Kept informed about the progress of the case but only in relation to their child. No information can be shared regarding the staff member
 - Made aware of the requirement to maintain confidentiality and unwanted publicity about any allegations made against teachers in schools whilst investigations are in process as set out in Section 141F of the Education Act 2002

⁸ In deciding what information is disclosed, careful consideration should be given to the provisions of the Data Protection Act 2018, the law of confidence and, where relevant, the Humans Rights Act 1998

Education South West

Low Level Concern/Allegation Report

Name of Reporting Person (can be anonymous):			
Date:		Time:	
Details of the member of staff about whom the low-level concern/allegation is being made			
Forename:		Surname:	

Details of the Low-Level Concern/Allegation		
Actions Taken	By Whom	Date
Name of Headteacher/DSL Investigating:		
<i>For Headteacher/DSL use only</i>		
Date Concern Recorded on School Central Tracker:		
Date Feedback Provided to Discloser:		

Signature of reporting person (leave blank if anonymous):	
Signature of Headteacher/DSL:	

Appendix B – Managing Allegations Flowchart

