



## Disciplinary Procedure

### Part 2 – Managing Allegations and Low-Level Concerns against School Staff

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## **Disciplinary Procedure – Part 2**

# **Managing Allegations and Low-Level Concerns against School Staff**

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# **School Disciplinary Procedure – Part 2 Managing Safeguarding Allegations against school staff**

## **1. Introduction**

**1.1** This second part to the Disciplinary Procedure specifically sets out the additional procedures for managing safeguarding allegations and low-level concerns against school staff. It complements and should be read in conjunction with the Disciplinary Procedure Part 1 – Managing the Conduct of School Staff and provides schools with:

- Information and guidance about managing safeguarding allegations and low-level concerns against employees, volunteers and school governors.
- Details of the statutory procedures for such allegations.

**1.2** Where allegations of a safeguarding nature are made, such cases must be addressed through the agreed processes, in line with current legislation, current statutory guidance and procedures. It is most important that all safeguarding allegations and low-level concerns against school staff should be reported immediately to the head teacher, or in the case where the allegation is against the head teacher, the Chair of Governors. When dealing with an allegation, before taking any further action, the head teacher or Chair of Governors should seek **immediate** advice from the Local Authority Designated Officer (LADO) to agree a course of action on how the allegation(s) should be managed, taking into account the nature, content and context, including the involvement of the police. The HR Director should also be consulted. Where a low-level concern is shared, in some cases it may be appropriate, depending on the nature of the concern, to seek advice from the LADO – this may be on a “no names” basis if necessary. HR advice may also be sought.

**1.3** Managing safeguarding allegations and low-level concerns against employees require the school and the governing body to act in accordance with the locally and nationally agreed procedures. The definitions of child abuse are contained within the Nottinghamshire Safeguarding procedures. In applying these procedures, reference should also be made to the latest version of the Department for Education guidance on Keeping Children Safe in Education September 2023 and should be read alongside Working Together to Safeguard Children 2018.

**1.4** 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 teacher or member of staff (including supply teachers and 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 they may pose a risk of harm to children; or

- behaved or may have behaved in a way that indicates they may not be suitable to work with children.

**1.5** This document also provides guidance regarding how to handle low-level concerns made against any member of staff, including supply teachers, contractors and volunteers, who are currently working in any school in the Trust.

A low-level concern is any concern, no matter how small, for example it could be something that creates a sense of unease or nagging doubt that a member of staff (including supply staff, contractors or volunteers) has acted in a way that:

- is inconsistent with the Code of Conduct, including inappropriate conduct outside of work.
- may not meet the allegations threshold but may merit consulting with and seeking advice from the LADO, on a no names basis if necessary.

**1.6** This document relates to members of staff including supply teachers and volunteers who are currently working in any school regardless of whether the school or college is where the alleged abuse took place. Allegations against a teacher who is no longer teaching should be referred to the police. Historical allegations of abuse should also be referred to the police. Keeping Children Safe in Education 2023, para 355 explains where allegations may meet the harms threshold. The harm test is also explained on the DBS website. <https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs#what-is-the-harm-test>

## **2 Legislation**

**2.1** The Children Act 1989 established the legislative framework for the protection of children and the Children Act 2004 strengthened the duty of organisations and individuals to safeguard and promote their wellbeing. Section 175 of the Education Act (2002) places specific duties on governing bodies, LA and Trust employers to carry out their functions in relation to the safeguarding and promoting the welfare of children. Keeping Children Safe in Education, which is updated each year, provides specific guidance to maintained schools, academies and local authorities on their role in helping to protect children from abuse.

**2.2** All Local Authority maintained schools, academy schools and other educational establishments have a statutory duty to assist Local Authority Children's Social Care acting on behalf of children in need or conducting enquiries into allegations of child abuse. All schools, irrespective of their governance arrangements, must act within the requirements of the local NSCB procedures when abuse is suspected and take the appropriate action when a teacher or other school employee is accused of abuse against a child.

**2.3** The guidelines have been drawn up in recognition of the particular sensitivity surrounding safeguarding allegations against school staff and the need for support to be given to the accused employee.

**2.4** The Sexual Offences Act 2003 established a criminal offence for the abuse of a position of trust. This affects teachers and others who are in a relationship of trust with under 18 year olds. Standards of conduct relating to schools staff are detailed in the Trust's Code of Conduct and Teachers Standards.

## **2.5 Equalities and Equal Opportunities**

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

## **2.6 Advice, Support and Training**

It is the responsibility of the head teacher to ensure that all relevant senior leaders understand their role and have access to appropriate support, advice and training in the application of these procedures. The head teacher should also ensure, in conjunction with the chair of Governors and the training co-ordinator, where appropriate, that in discharging their duties and responsibilities, governors have access to support, advice and training as appropriate.

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

- 3.1** These guidelines are consistent with good employment practice, principles of natural justice and Part 4 of Keeping Children Safe in Education (Allegations made against/Concerns raised in relation to teachers including supply teachers, other staff, volunteers and contractors).
- 3.2** Because of their daily contact with children in a variety of situations, teachers and school support staff are particularly vulnerable to accusations of abuse. Staff working with children and young people are, therefore, expected to ensure their conduct and behaviour with children and young people is appropriate at all times and to take all reasonable steps to minimise the risk of their actions being construed as illegal or professionally inappropriate.
- 3.3** It is recognised that the nature of relationships between school staff and pupils may lead to allegations being made against them by colleagues, pupils or parents. Allegations may be substantiated, false, malicious or unsubstantiated.
- 3.4** In some circumstances, schools and colleges will have to consider an allegation against an individual not directly employed by them, for example supply teachers provided by an employment agency. Whilst schools and colleges are not the employer of supply teachers, they should ensure allegations are dealt with properly. In no circumstances should a school or college 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.
- 3.5** 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 Chair of Governors. Before taking any further action the head teacher or the Chair of

Governors should seek immediate advice from the Local Authority Designated Officer (LADO) and must not interview or discuss the allegation with the employee.

**3.6** 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 HR Director. 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.

**3.7** The LADO will also provide advice on low-level concerns where there is uncertainty (see 3.11 below), which can be shared on a no names basis if necessary.

**3.8** 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.

**3.9** 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, para 415 – Record Keeping).

**3.10** Employers have a duty of care to their employees. The school should ensure that the employee subject of the allegations/concerns is kept informed of the progress of the case and offered appropriate support. However, in some circumstances the police and / or social care services may require information at the initial stages to be withheld if it could prejudice their enquiries (see Part 4 KCSIE, para 387– Supporting those involved).

### **3.11** Guidance on managing low-level concerns

**3.12** These guidelines are consistent with good employment practice, principles of natural justice and Part 4 of Keeping Children Safe in Education 2023 (Allegations made against/Concerns raised in relation to teachers including supply teachers, other staff, volunteers and contractors).

**3.13** All staff must be aware of the importance of appropriately reporting low-level concerns which may be of a lower level than those which clearly meet the “allegation” threshold. Research has shown that having a clear policy regarding the management of low-level concerns can help to create a safer environment for children, provide a more complete picture and help to avoid the risk of missed opportunities to identify and effectively intervene in concerning, problematic or inappropriate behaviour.

**3.14** A low-level concern is any concern, no matter how small, for example it could be something that creates a sense of unease or “nagging doubt” that a member of staff (including supply staff, contractors or volunteers) has acted in a way that:

- Is inconsistent with the Code of Conduct, including inappropriate conduct outside of work
- May not meet the allegation threshold (see 1.4 above) but may merit consulting with and seeking advice from the LADO on a no names basis if necessary

### **3.15** Examples of low-level concerns could include (but are not limited to):

- Being over friendly with children
- Having favourites

- Taking photos on their mobile phone
- Engaging with a child on a 1-1 basis in a secluded area or behind a closed door
- Using inappropriate sexualised, intimidating or offensive language

**3.16** Any member of staff who has such a concern regarding their own, or another member of staff's behaviour (including supply staff, contractors or volunteers), must share their concerns with the Head Teacher immediately. If the concern relates to the Head Teacher, the member of staff should report it to the Chair of Governors.

**3.17** Staff do not need to be able to determine whether their concern is low-level or meets the allegations harms threshold. This determination will be made by the Head Teacher, once the individual has shared it.

**3.18** It is important that any such concerns are shared without delay and within 24 hours. However, staff should be aware that it is never too late to share concerns, and those which have existed longer than this, should also be reported.

**3.19** If the staff member raising the concern wishes to remain anonymous, their wishes will be respected as far as possible. However, there may be some circumstances where this will not be possible, for example where it is necessary to carry out a fair disciplinary process.

**3.20** A member of staff may also share concerns about themselves (self-report). This may be appropriate where a member of staff has found themselves in a situation which has the potential to be misinterpreted or might appear compromising, to others. Equally, a member of staff may for whatever reason have behaved in a manner, which on reflection, they consider falls below the standards set out in the Code of Conduct. Self-reporting in these circumstances is positive: because, it enables a potentially difficult issue to be addressed at the earliest opportunity, it demonstrates self-awareness of the standards of conduct required and it helps maintain a culture where everyone aspires to perform to the highest standards of conduct and behaviour.

**3.21** A member of staff wishing to share a concern may either speak to the Head Teacher verbally or they may wish to provide a written summary. If provided verbally, the Head Teacher should make a written record of the conversation. The record should include brief context as to how the concern arose and details of any relevant incident. The record should be signed timed and dated.

**3.22** When a low-level concern is shared, the Head Teacher will speak to the individual that the concern is about and any witnesses, as soon as practical (unless otherwise precluded, for example where advised not to do so by the LADO, where they have been contacted).

**3.23** If the individual has a conflicting account of the incident, this should be recorded by the Head Teacher.

**3.24** The Head Teacher will then need to review the information and determine whether the behaviour is

3.24.1 i) entirely consistent with the Code of Conduct and the law,  
3.24.2 ii) constitutes a low-level concern

- 3.24.3 iii) is not serious enough to consider a *referral* to LADO – but may merit consulting with and seeking advice from LADO on a no names basis if necessary
- 3.24.4 iv) when considered with any other low-level concerns previously raised about the same individual could now meet the threshold of an allegation and should be referred to the LADO or
- 3.24.5 v) in and of itself, it meets the threshold of an allegation and should be referred to the LADO.

- 3.25** If the Head Teacher is in any doubt whatsoever, they should seek advice from the LADO, on a no names basis if necessary.
- 3.26** The Head Teacher should ensure they have made appropriate records of: all internal conversations with parties and witnesses, all external conversations with LADO, their determination, their rationale and any action taken.
- 3.27** In some cases, it may be enough to carry out a coaching conversation where guidance is offered regarding how to bring behaviour up to the correct standards. In other cases, there may be a need to refer the matter through other appropriate employment processes. LADO and HR advice will be taken as appropriate.
- 3.28** If it is determined that the behaviour is entirely consistent with the Code of Conduct and the law, the Head Teacher will update the individual. They should also inform the person who raised the concern and explain why the conduct is consistent with the Code of Conduct and the law.
- 3.29** If it is determined that the behaviour does constitute a low-level concern, it should be responded to in a sensitive and proportionate way. Any investigation of a low-level concern will be done discreetly. Most low-level concerns are likely to be minor. Some will not give rise to any ongoing concern and will not require further action. Some may be most appropriately dealt with by means of management guidance and/or training. In many cases it will simply require a conversation with the individual, which should be values-based, and should include being clear with the individual as to why their behaviour is concerning or inappropriate and enquiring what support if any they might need to achieve and maintain the necessary change. It will be important to be clear about consequences if the required standards are not reached. Ongoing and transparent monitoring may be appropriate, as might an action plan or risk assessment, which is agreed with the individual and regularly reviewed.
- 3.30** Some low-level concerns may also raise issues of misconduct or performance. The Head Teacher should consider whether this is the case and take advice from HR where necessary.
- 3.31** If it is determined that, whilst the behaviour is not sufficiently serious to make a referral to the LADO, it nonetheless merits consulting with and seeking advice from the LADO, on a no names basis if necessary, then action (if any advised) should be taken in accordance with the LADO's advice.
- 3.32** If it is determined that, the behaviour, when considered with any other low-level concerns previously shared about the same individual, could now meet the threshold of an allegation, or in and of itself meets the threshold of an allegation, then it should be referred to the LADO.

## 4. Other Considerations

### 4.1 Managing Communications / Confidentiality

4.1.1 When allegations/concerns are made against school employees, it is very important to manage and coordinate communication to the employee and other parties, when it's agreed this can happen. All communication should be discussed and agreed in advance with the LADO, the police, the HR Director as appropriate to the management of the case. Parents and carers of any children directly involved should also be kept informed, appropriate to the case, about an allegation and the progress of any subsequent procedures. They are also entitled to be told in general terms of the outcome relating to an internal disciplinary hearing.

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

### 4.2 Suspension

4.2.1 Head Teachers / Chairs of Governing Body should always refer to Part 1 – Managing the Conduct of School Staff (point 3.7) whenever suspension is being considered. Consideration of suspension should always be discussed in advance with the LADO and the HR Director who will provide advice on how this should be managed to ensure it is co-ordinated with action being taken by other agencies, including the police and social care.

4.2.2 In the case of a supply member of staff, subject to 4.2.1. above, governing bodies and proprietors should discuss with the agency whether it is appropriate to suspend the supply teacher, 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 or college 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 body or proprietor 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 employee against whom the allegation has been made should **not** be automatically suspended. However, in the case of an immediate referral to children's social care, it may be agreed that immediate suspension may be necessary. Whilst clarity over the facts is sought in the initial stages, the employee may be instructed not to attend their place of work, with a decision for the employee 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.

4.2.3 Suspension should not be undertaken without good reason and does not constitute disciplinary action nor any assumption of guilt. The reason for the suspension will be kept under review and the period of suspension will be no longer than necessary. Alternatives to suspension may include transferring the employee to other duties /location, removal from contact with the pupil or agreeing a short period of paid leave. It is also important to be able to demonstrate that the decision to suspend is based on evidence that the allegations are serious and likely to be substantiated. Circumstances which would normally warrant suspension include:

- a) where there is evidence that a child or children continue to be at risk and no other action can be taken to minimise this risk.
- b) where the allegations are so serious that they potentially constitute gross misconduct and there is sufficient evidence to suggest that the allegations may be true.
- c) where it is necessary to allow the conduct of the child protection enquiries/investigation to proceed unimpeded.
- d) where a police investigation is being undertaken and the police have indicated that suspension would be appropriate.
- e) to protect the interests of the employee (this should be discussed with the employee prior to suspension).

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

4.2.5 Where there is no police involvement, or it has been agreed that an initial interview can take place, it should be arranged in line with the following procedures:

- a) The head teacher must seek advice from the HR Director before arranging and then conducting this meeting.
- b) Where a recommendation to suspend is a possible outcome of the interview the employee should be advised by the head teacher to seek the advice and assistance of his or her trade union or colleague. Wherever possible, attempts should be made to inform the appropriate trade union of the need for them to attend the meeting to act as a support for their member at this meeting.
- c) At the outset of the interview the employee should be informed that an allegation has been made and that suspension might occur. The employee, where accompanied, should be offered the opportunity of a meeting with the representative or colleague before the interview. It should be made clear, however, that the interview is not a formal disciplinary hearing but is for the purpose of putting forward a serious matter which could lead to a recommendation to suspend pending further investigation.
- d) The employee should only be given information as agreed can be shared at this stage with the LADO / Police or HR Director, including reasons for any proposed suspension, as is consistent with not interfering with enquiries about the allegation. This information is likely to be very limited. The meeting is not, therefore concerned with an examination of the evidence, but is an opportunity for the employee to make representations concerning any possible suspension. An adjournment should be offered to enable the employee and their representative to meet in privacy to consider their response.
- e) If, as a result of the interview or following a decision of a strategy meeting that suspension is required, the head teacher considers that a recommendation to suspend is necessary while the enquiries about the allegation are pursued, the employee should be advised accordingly.
- f) The employee should be asked to return school possessions, including keys, phones, other mobile devices and other school based documents / information.
- g) The school should ensure that there are appropriate arrangements in place for the employee to get home safely.

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

Care should be taken at this stage to acknowledge the effect the allegations and the suspension may have on the employee and consider providing appropriate employee support and counselling if necessary. The HR Director can give advice about appropriate strategies to support the employee. The suspension of any employee in relation to such investigations shall be with full pay. The HR Director will provide advice on the suspension process, including confirming the decision in writing.

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

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

The head teacher should then take the following actions:

- a) A letter will be sent to the employee giving reasons for the suspension as soon as possible. This should normally be the next working day. An employee has no right of appeal against the decision to suspend. The letter should also include the name of a named person in school for support and the name of the HR Director as an information contact. The main role of the contact person is to provide information regarding the progress of the case. In some cases, appropriate welfare support, including access to counselling and a referral for Occupational Health support may need to be given.
- b) Arrangements should also be made for the employee, or their representative or support colleague, to be contacted regularly with information on progress and developments on the case (as agreed with the LADO / HR Director) either via the head teacher or the Chair of Governors (in the case of a head teacher).
- c) The employee should also be advised not to contact parents and pupils or discuss the case with members of staff, the governing body and the wider school community. However, social contact with colleagues should not be denied, provided the confidentiality regarding the allegations is maintained.
- d) Consideration will also need to be given as to what information should be conveyed to school staff, governors, parents and pupils. The HR Director will support the school with this communication in conjunction with the relevant Media Relations Team, LADO and where applicable, the Police. It is most important that information at this stage is co-ordinated effectively. In the case of the suspension of the headteacher, the HR Director and CEO will fully support the chair of governors to undertake these actions.
- e) Where agreed, arrangements should be made for the appropriate enquiries/investigations to be conducted by the school as speedily as possible consistent with establishing the full facts following agreement with any other agencies / partners involved in the case, including the LADO, Social Care and the Police.
- f) Support will need to be considered for the child or children making the allegations and their parents. Consideration will also need to be given as to what support may be needed for others at the school, both staff and parents, according to the circumstances of the case. Advice may be obtained from the LADO, Children's Social Care as appropriate.
- g) Work closely with the HR Director and take steps to review the continuation of the suspension during the course of the investigation.
- h) Where the reason for suspension is related to concerns about an employee who has harmed, or who poses a risk of harm, to a child or vulnerable adult the school must consider a referral to DBS as soon as possible, and ordinarily on conclusion of an investigation.
- i) Where the reason for the concern is related to concerns about an employee who has harmed, or who poses a risk of **harm**, to a child or vulnerable adult and a decision is taken not to suspend but to redeploy the person to another area of work that is not regulated activity, the legal duty to refer the case to the DBS as soon as possible, or ordinarily on conclusion of an investigation, still exists.

j) For further information see paragraph 15.4 Referral to DBS

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

The head teacher should arrange a meeting to explain to the employee concerned the circumstances which led to consideration of suspension and further explain any follow-up action which it is proposed to take. The employee may be accompanied, at this meeting, by their trade union representative or colleague. According to the circumstances of the case, appropriate assistance or advice may be offered to the employee, including counselling or other relevant welfare support.

If an employee has not been suspended but the head teacher nonetheless has concerns about aspects of their conduct, a full internal investigation should be undertaken before making a decision about further action under disciplinary procedures for school staff.

#### **4.6 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 / HR Director in these circumstances. In general, a police investigation will take precedence and the school investigation will be held in abeyance pending Police / court actions.

Where there has been police involvement, any statements made to the police in the course of their investigation by the employee or other potential witnesses to an incident are not automatically available to the school or employer. If it is necessary to obtain statements from the Police investigation to support an internal disciplinary process, a formal request to the Police is required. The individual will need to give explicit written consent to the Police. There is also a cost, payable by the school to the Police. Further advice on this can be obtained from the HR Director who may request such evidence from the police on behalf of the school for use in the course of an internal disciplinary investigation.

### **5. Roles and responsibilities**

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

Trustees and Governing bodies should ensure that they are fully aware of their responsibilities under employment law in applying this procedure. All Trustees, school staff and governors have a responsibility to respond in accordance with the school's procedure and statutory guidance to any allegations about members of staff which could constitute abuse of a child or young person. Such allegations may be related to physical and / or sexual abuse; they may be at a level which constitutes inappropriate behavior or unprofessional conduct; they may meet the threshold of a criminal offence. In particular, head teachers, designated persons, chairs of governors and nominated governors are advised to ensure they are familiar with their responsibilities as outlined in the Education Act 2002 and the latest guidance contained within their own school child protection procedures. In particular, reference should be made to Keeping Children Safe in Education Part 4.

School staff should have access to information, training and support on local (Nottinghamshire Safeguarding Children Board) child protection procedures and always comply with the school safer working practices and School Code of Conduct. Such

information should be provided to all new employees at induction and at whole school refresher training events.

## **5.2 Designated Person**

All schools must ensure that a senior member of the school leadership team is given the specific responsibility for co-ordinating action in the school and for liaising with Children's Social Care and other agencies over suspected child abuse. In many schools this will be the Head Teacher. Another staff member should also be identified in case the designated person is not in school when an incident arises. Where this role is delegated to another senior member of staff, the head teacher should be kept informed of any allegations made and the actions taken. The role of the designated safeguarding lead is outlined in full in Part 2 of Keeping Children Safe in Education.

## **5.3 Nominated Governor for Safeguarding**

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

- a) Ensuring, in liaison with the head teacher/designated person, that the school has a child protection policy and procedures in place which are consistent with NSCP procedures and other statutory requirements.
- b) Ensuring that an annual item is placed on the governors' agenda to report on changes to child protection policy/procedures, training undertaken by the designated person, other staff and governors, the termly report about the number of incidents/cases referred to Children's Social Care (without details or names) and the place of child protection issues in the school curriculum.
- c) Liaison (with due regard to issues of confidentiality) with the head teacher/designated person re allegations of child abuse.
- d) Responsibility for the oversight of procedures relating to liaison with Children's Social Care and the police in relation to any allegations of child abuse made against the head teacher, including possible attendance at strategy group meetings. The nominated safeguarding governor will be required to facilitate enquiries into any complaint against the head teacher and ensure that arrangements are put in place so that allegations are appropriately investigated.
- e) Undertake the appropriate training. The designated governor should undertake the whole school safeguarding training at least every 3 years or attend Governor Safeguarding Training in line with NSCP Guidance.

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

The LADO has responsibility for co-ordinating policy and action on child protection for all schools, irrespective of their governance arrangements. This is a wide-reaching role which covers all maintained, academy, trust, foundation and church schools within

Nottinghamshire. This officer is recognised by the NSCP and will be involved in maintaining local procedures, including arrangements for Designated Persons and will be the local authority point of contact with Children's Social Care and other agencies. The school must contact the LADO immediately for advice and guidance following an allegation and before taking any action against the employee. (See **Annex 1** – Advice and guidance for contact points)

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

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

## **6. First Response**

**6.1** 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 relevant school procedures, including the statutory guidance Keeping Children Safe in Education. **Annex 2** addresses the particular issues that arise if the head teacher is the subject of the complaint.

**6.2** A child reporting to a member of staff that they have been abused by another adult or member of school staff must be listened to. It is often difficult for an employee to believe that a colleague may have behaved in the manner alleged. They must therefore keep an open mind regarding the circumstances of the allegation. However, it is essential that the following guidance is taken into account when dealing with such an allegation, particularly if made directly by a child:

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

**6.3** No promises of **confidentiality** should be made to pupils who make allegations. Instead, the child should be encouraged to agree that the matter must be taken further in the knowledge of what this may involve. Whilst acknowledging the need to create an environment conducive to speaking freely, it should be made clear to the child by the member of staff that in all cases they have a duty to pass on what the child has told them to ensure the protection of child(ren). The child should be assured that the matter will

only be disclosed to those people who need to know about it. Support may need to be offered by the school or another appropriate agency. Consideration must be given at this point as to whether the allegation may be malicious. If it is obvious that the incident could not have taken place or it is reasonable to suspect that the allegation is malicious then further advice should be sought from the LADO before making any decisions.

- 6.4 A written dated **record of the allegations** disclosed by the pupil must be made as soon as possible, but certainly within 24 hours. If, however, a decision is made in conjunction with LADO to take no further action, a written record of this should be made including the reason for the decision.
- 6.5 The LADO will liaise with the HR Director as appropriate and provide advice to the head teacher or nominated governor about what information should be recorded in writing. The head teacher or nominated governor must obtain details of the allegation in writing, signed and dated by the person who receives the allegation (not from the child who made or is the subject of the allegation) and countersigned by the head teacher or nominated governor. Any information about times, dates, locations and names of potential witnesses should be recorded.

## 7. Initial assessment

- 7.1 At this stage the head teacher (or nominated governor) must urgently consider whether there is sufficient substance in the allegation (anonymous or otherwise) to warrant further action. To assist in making this decision, therefore, the head teacher - or in the case of an allegation against the head teacher, the nominated governor - must 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 Director and police may be instigated at this stage to determine the appropriate action to be taken.
- 7.2 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. In making this initial assessment, the head teacher (or nominated governor where the allegation is against the head teacher) must not attempt to conduct an investigation into the allegation, interview pupils or discuss the allegation with the member of staff. Instead, the head teacher (or nominated governor) must first make an initial assessment of the situation and decide, having consulted the LADO, whether the allegation requires further investigation and if so, by whom. However, only in those cases where the allegation is trivial or demonstrably false, will further investigations not be warranted.
- 7.3 If a child makes an allegation that is considered to be a **potential criminal act** within the scope of the child protection legislation or indicates that they have suffered, are suffering or are likely to suffer significant harm, the head teacher (or designated governor) must refer the matter immediately in line with the local child protection procedures. This should either be via direct contact with police or children's social care officers, or the LADO or their representative. If there is any doubt about this, advice must be sought immediately from the LADO.

## 8. Allegations that do not warrant referral

**8.1** 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 (including guidance re powers to discipline pupils issued in Behaviour in Schools, DfE guidance September 2022) , it will be appropriate for the head teacher to deal with the matter at school level. However, an allegation of assault beyond the use of reasonable force must be dealt with in accordance with the NSCB procedures described above.
- Where, following initial consideration by both the head teacher and the LADO it is absolutely clear that the allegation is demonstrably false i.e. the immediate circumstances of the allegation show that it would not be possible for the allegation to be true, the matter can be dealt with at school level. However, there may be other issues relating to the child's needs which should be addressed in consultation with Children's Social Care or other appropriate agencies.
- The allegation may represent inappropriate behaviour or poor practice by a member of staff which should be considered under the school's Disciplinary Procedure – Part 1 Managing the Conduct of School Staff.
- In any case above the school should record the details of the allegation and circumstances/reasons for proposed action. Where there is any doubt head teachers should seek advice from the LADO.

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

**9.1** Where the initial assessment by the LADO and the head teacher (or, where the allegation is against the head teacher, the nominated governor) 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.

## **10. Outcomes of Initial Assessment**

**10.1** Following the initial assessment, a decision must be taken in conjunction with the LADO regarding appropriate courses of action. There are four possible outcomes:-

- a) Where the pupil has suffered, is suffering or is **likely to suffer significant harm**, there should be an immediate referral to children's social care under the local child protection procedures. (See section below – Referral to children's social care and /or Police).
- 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. (See section below –Referral to children's social care and/or Police).

- c) Where it is considered that the allegation was prompted by **inappropriate behaviour or bad practice** by the employee which does not fall into either of the above categories, it should be dealt with under the school's disciplinary procedures (see School Disciplinary Procedure – Part 1). 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 to allow for an appropriate and reasonable investigation to be conducted. Please refer to Schools Disciplinary Procedure Part 1 and the section in this document headed "Internal Investigations."
- 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. (See section – "Outcome of Internal Investigation"). In such cases, the DfE recommends that the head teacher should take any such appropriate action, where possible, within 3 working days.

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

- 11.1** If the initial assessment concludes that a child may have suffered or is at risk of significant harm and/or in need of protection, there should be an immediate referral to the Children's Social Care Area Office in accordance with the agreed procedures established by the NSCB.
- 11.2** Where 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. Schools must contact the LADO for advice immediately and if not available the MASH (Multi Agency Safeguarding Hub – see Contacts Annex 1). There must then be no interference with evidence and, in particular, no staff or governors should attempt to interview children about these matters without first seeking advice. The sections "First Response"- and "Conducting the Investigation" give specific guidance on listening to and interviewing children in these circumstances.
- 11.3** In some cases the police will want to interview the member of staff against whom the allegation is made before the head teacher / designated person (or nominated governor in cases where allegations involve the head teacher) makes any contact with the employee. The police may need to act independently, particularly where the alleged offence does not arise from the individual's professional duties in the school. Police Officers should be given every assistance with their enquiries and, in the interest of the individual and the school, confidentiality must be maintained. Where the police have confirmed it is appropriate to do so, the employee concerned should be advised and given every opportunity to contact their recognised trade union who will arrange for the appropriate support to be available.
- 11.4** When police are involved, parents will be contacted and formal interviews with children should not normally take place on school premises but, where necessary, provision should be made for these to be held in the presence of a member of school staff of the child's own choosing, if appropriate. It would be expected that appointments should be made for such interviews to take place at reasonable times.

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

- (a) inform the child, children or parent making the allegation about the referral and explain the likely course of action.
- (b) ensure that the parents of the child who is the alleged victim have been informed of the facts 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 chair of governors/nominated governor of the school.

**11.6** Where the police object to action being taken as outlined in (a) – (d) above, the head teacher/nominated governor and the HR Director/CEO 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).

## **12. Formal Investigations**

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

- a) an enquiry conducted by Children's Social Care under local NSCB procedures.
- b) related police investigations into possible criminal offences.
- c) an internal investigation under the schools agreed disciplinary procedures.

**12.2** Any investigation by the police or child protection agencies will normally take priority over an internal disciplinary investigation by the school. Therefore, any internal investigations will normally be held in abeyance pending either the completion of the external enquiries or an agreement by all parties that the school can proceed with a disciplinary investigation.

**12.3** Before a decision is taken about whether any enquiries will be undertaken by the police and/or Children's Social Care, a **multi-agency strategy meeting** will be held in accordance with the NSCB Procedures. This will usually involve the head teacher (or nominated governor where the allegation is against the head teacher), the LADO (or their representative), as well as officers from social care, 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.

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

- whether an enquiry or investigation needs to be conducted,
- the type of enquiries or investigation to be conducted and by whom
- how such an enquiry or investigation will be conducted and the timeline
- whether any other children are likely to have been at risk in the light of the allegation

- the implications for the employee and the child involved
- whether it may be necessary to review any previous allegations made against the member of staff
- any appropriate action to be taken by the school in relation to the employee e.g. whether suspension (see section below) is necessary, levels of information and support to be offered by the employer, whether or not any internal investigation should be conducted.

## 13. Internal Investigations

There are likely to be two possible types of internal investigation arising from an allegation of abuse against an employee:

### 13.1 Preliminary investigation

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

### 13.2 Internal Disciplinary Investigation

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

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

Following any preliminary or further investigation undertaken by the head teacher or other agencies, a meeting should be held to inform the employee of the next steps. The employee may be accompanied by a trade union representative or colleague.

## 14. Conducting the investigation

Further guidance and support is available in Part 1 of the school Disciplinary Procedure.

### 14.1 Investigating officer

A decision should be taken as to who should take on this role, depending on the circumstances. In most cases it will be appropriate for the head teacher or a senior leader in school to conduct the investigation. In other more serious or complex cases it will be appropriate for the investigation to be conducted by someone independent of the school and the governing body should seek advice from the HR Director and may request that an investigation be undertaken by an independent investigator.

#### **14.2 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 so informed.

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, the authors of such statements should be informed of this before the interview takes place and before the statements are provided to the police. In the case of statements or other evidence made available to the police, they can only be provided to the school as part of a disciplinary investigation with the consent of the police and the signatories. The HR Director can provide further guidance regarding the use of such evidence.

#### **14.3 Planning the investigation**

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

- a) establish a provisional timescale for the investigation (see below)
- b) define areas to be investigated, as far as possible at this stage. The scope of the investigation may change as more information becomes available.
- c) draw up a provisional list of those to be interviewed and a list of topics to be discussed as required during the investigation
- d) check corroborative evidence
- e) assess the credibility of the person making the allegation

#### **14.4 Timescales**

It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations should be investigated as a priority to avoid any delay. The time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation. The person conducting the investigation should be able to account for the period of investigation and time taken to conclude a particular case. The investigating officer should provide an estimate of the timescale they are working to and should review this on a regular basis, keeping the individual informed of any delays.

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

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

#### **14.5 Interviews**

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

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

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

The point at which this occurs will depend upon the nature of the allegation and needs to be very carefully planned. Where it has been agreed that it is appropriate for the employee to be informed of the allegation, the employee should:-

- a) be strongly advised to contact their trade union for advice and support
- b) be informed of his/her rights under the school's disciplinary procedures, including the right to be accompanied at an investigation interview and right to representation at a formal hearing
- c) be informed of the allegations, in writing, and invited to respond and to make a statement. The employee has the right either to respond or decline to respond
- d) be invited to identify any persons who may have information relevant to the investigation. These names should be added to the list of those to be interviewed

Full notes should be taken of the interview and the employee invited to read and sign them as a true record at the end of the interview.

#### **14.7 Interviewing children**

The person to whom 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.
- Ask a child to write a statement or write down their version of events.
- Make assumptions or offer alternative explanations.
- Promise confidentiality but 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 / adult's own words), including the time, date and place of incident/s, persons present and what was said.
- Sign and date the written record.
- Immediately report the matter to the Designated Senior Officer, or the deputy in their absence.

#### **14.8 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 the HR Director. Consideration will again be given as to whether initial information considered by the Police / social care has changed, meaning that the case should be referred under local child protection procedures or to the police and whether suspension is appropriate. If there is such a referral, further proceedings at school level should be held in abeyance. If not, the case should proceed within the school disciplinary procedures.

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

### **15. Outcome of internal investigations**

There are two potential outcomes of the investigation:

#### **15.1 Disciplinary action**

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

#### **15.2 Allegation is unsubstantiated.**

In cases where the head teacher, in consultation with the LADO, the HR Director and other appropriate agencies, believes that the allegation is without foundation ('unsubstantiated'), 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 **must** be confirmed in writing. The employee may be accompanied by a trade union representative or 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 Education Psychology 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.

### **15.3 Reviewing Suspension**

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

## **16. Concluding any disciplinary proceedings and referral to DBS and TRA**

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

- a) The child or children who made the allegations and their parents / carers should be advised that appropriate action has been taken in line with statutory / school procedures and informed that the internal disciplinary matter has been concluded. The parents should be informed of the outcome in general terms i.e. that the appropriate school procedures have been followed and that appropriate employee has or will return to work or that the employee has been dismissed. Parents / carers are not entitled to any details about the governors' deliberations and the information taken into account when making their decision. This information should be conveyed prior to the employee's return to school if he or she has been suspended;

- b) Appropriate counselling and support should be offered to the child before the employee returns to school. In particular, this should take into account a child's individual needs where a false or malicious allegation has been made and the school may need to consider appropriate sanctions. Appropriate support and advice may be sought from the LADO, Children's Social Care and EPS. If a child who has made a false or malicious allegation against an employee transfers to another school, advice should also be sought regarding appropriate information to be passed on;
- c) In some circumstances, for example if they have been wrongly accused, it may be appropriate to make appropriate arrangements to minimise the child's contact with the employee;
- d) In view of the ongoing historic child abuse review, all documents relating to the case and any investigation must be retained together with a written record of the outcome of the investigation. **Where disciplinary action has been taken, a record should be retained on the employee's personal and confidential file indefinitely.**
- f) If the allegation is substantiated and the person is dismissed the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the designated officer(s) should discuss with the case manager and the HR Director whether the school should make a referral to the DBS for consideration of inclusion on the barred list; and in the case of a member of teaching staff, whether to refer the matter to the Teaching Regulation Agency (TRA) to consider prohibiting the individual from teaching in their capacity as regulators of the teaching profession.
- g) Please remember, that the duty to refer to the DBS applies equally in certain circumstances of harm or risk of harm to a child or vulnerable adult where an individual has been redeployed to another area of work that is not regulated activity, or where they have been suspended. Where the employee has already been referred to the DBS in these circumstances an update to the DBS will be required on the conclusion of the case.

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

## 17. Record keeping and confidentiality

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

Details of allegations found to be malicious or false will not be retained on personnel files, unless permission is given by the individual. For all other allegations, records will be kept securely and confidentially on the individual's personnel file. These will remain on the

individual's file at least until they have reached normal pensionable age or for a period of 10 years from the date of the allegation if that is longer.

Any records containing information about allegations of sexual abuse for the Independent Inquiry into Child Sexual Abuse (IICSA), will remain for the term of the inquiry.

All low-level concerns should be recorded in writing, including the details of the concern, the context and any action taken. Such records will be kept confidentially and securely centrally by the Trust and will remain on file for the entirety of the individual's employment and will be retained for 6 years after.

## **18. References**

Cases in which an **allegation** was found to be false, unfounded, unsubstantiated or malicious should not be included in employer references. Substantiated allegations should be included in references. The information provided should be factual and not include opinions.

**Low-level concerns** should **not** be included in references, unless they relate to issues which would normally be included in a reference e.g. misconduct or poor performance. A low-level concern which relates exclusively to safeguarding should not be referred to in a reference. However, where a low-level concern has met the threshold for a referral to the LADO and found to be substantiated, it should be referred to in a reference.

## **19. Review**

Following a difficult incident, the head teacher, governing body and local authority may find it helpful to consider whether there are any general matters arising from it which could warrant a review of school or local policy and procedures. Specific training needs of staff should be considered along with implications for all staff, pupils and their parents. Consideration should also be given to addressing concerns of staff, especially where false allegations have been made.

## **Advice and Guidance**

### **1) Contact Points**

LA Designated Officer (LADO)	0115 804 1498
Business Support Administrator for LADO (Ann Fisher)	0115 977 3921
LADO email address	LADO@nottscce.gov.uk
Nottinghamshire Safeguarding Children Partnership	<a href="https://nsdp.nottinghamshire.gov.uk/">https://nsdp.nottinghamshire.gov.uk/</a>
MASH (Multi-agency Safeguarding Hub)	0300 500 80 90
HR Director (sue.angood@whptrust.org)	0115 9078115

### **2) Reference Documents**

Nottinghamshire Safeguarding Children Board, (NSCB) Procedures

Working Together to Safeguard Children, 2018

<https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

Keeping Children Safe in Education 2023

<https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>

## **Annex 2 - Managing Allegations/Low-Level Concerns against Head Teachers**

In dealing with allegations of abuse or low-level concerns against the head teacher, the procedures to be followed are broadly similar to those which apply to other employees. However, in these circumstances, some additional issues will need to be considered, including the leadership of the school, the increased sensitivities relating to the high-profile nature of the head teacher's role in the community and the need for the matter to be dealt with directly by governors.

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

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

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

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

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

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

**Or**

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

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

In consultation with the LADO or HR Director the nominated governor should then be advised to:

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

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

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

Or

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

In cases where suspension of the head teacher and/or an internal investigation have been agreed, the HR Director will provide advice and support to the governing body in line with the Disciplinary Procedure Part 1 – Managing the Conduct of School Staff.

## **Annex 3 – Summary of Formal Procedure (Part 2 – Managing Allegations and Low-Level Concerns against School Staff)**

Any safeguarding **allegations** against employees require the Governing Body to act in accordance with the locally and nationally agreed procedures as summarised below. Reference should also be made to the government document Keeping Children Safe in Education – part 4 (Allegations of Abuse/Concerns raised in relation to Teachers, including supply teachers, other staff, volunteers and contractors)

Any **low-level concerns** against employees must be managed in accordance with point 3.11 of this procedure, which is in accordance with Keeping Children Safe in Education 2021, Part 4. The [low-level concerns form](#) should be completed.

### **When managing allegations:**

#### **First response**

- Inform the LA Designated Officer (LADO) immediately and seek detailed advice on next steps and on what information can be shared, if any, with alleged perpetrator.
- Record allegations and action taken within 24 hours.
- Joint agency strategy discussion may be instigated.

#### **Initial assessment**

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

#### **Formal investigations**

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

#### **Internal investigations**

1. Preliminary investigation to obtain a written record of known events.
2. Formal investigation conducted by the school in line with the school's disciplinary procedures following:-
  - an initial assessment and / or preliminary investigation of the situation where it is agreed that there is no requirement for a police investigation or social service enquiry.
  - a joint agency strategy discussion / meeting concluding that the matter should be dealt with under the school's internal disciplinary procedures.
  - a police investigation which has led to the matter being addressed by a court of law, regardless of the outcome.

- DFE advisory timescales for internal investigations:-
  - Report produced within 10 working days.
  - Head teacher consults LADO within 2 working days to decide whether to hold disciplinary hearing.
  - Disciplinary hearing held within 15 working days of that decision.
  - LADO required to monitor progress of investigation.
- Two potential outcomes of the internal investigation:-
  - Disciplinary action in line with the school disciplinary procedures  
Or
  - Allegation confirmed as without foundation (in consultation with the LADO and other appropriate agencies).

**This procedure may not always be straight forward and Headteachers and governing bodies are strongly advised to seek guidance from the HR Director.**

**When managing low-level concerns:**

The head teacher or nominated governor (if dealing with low-level concerns in relation to the head teacher) should:

1. Listen to and record the concerns raised by the member of staff.
2. Take advice from the HR Director as appropriate.
3. If necessary, discreetly undertake discussions with any witnesses.
4. Speak to the member of staff who the concerns are regarding – tell them the concerns and ask for their account of any incidents. Record any discrepancies regarding the member of staff's account and the account given by the person reporting the concern.
5. Determine whether the concern:
  - i) is entirely consistent with the Code of Conduct and the law.
  - ii) constitutes a low-level concern.
  - iii) is not serious enough to consider a referral to LADO – but may merit consulting with and seeking advice from LADO on a no names basis if necessary.
  - iv) when considered with any other low-level concerns previously raised about the same individual could now meet the threshold of an allegation and should be referred to the LADO.

or

  - v) in and of itself meets the hold of an allegation and should be referred to the LADO.
6. If it is determined that the behaviour is entirely consistent with the Code of Conduct and the law, the Head Teacher/nominated governor will update the individual. They should also inform the person who raised the concern and explain why the conduct is consistent with the Code of Conduct and the law.

7. If it is determined that the behaviour does constitute a low-level concern, it should be responded to in a sensitive and proportionate way. Any investigation of a low-level concern will be done discreetly. Most low-level concerns are likely to be minor. Some will not give rise to any ongoing concern and will not require further action. Some may be most appropriately dealt with by means of management guidance and/or training. In many cases it will simply require a conversation with the individual, which should be values-based, and should include being clear with the individual as to why their behaviour is concerning or inappropriate and enquiring what support, if any, they might need to achieve and maintain the necessary change. It will be important to be clear about consequences if the required standards are not reached. Ongoing and transparent monitoring may be appropriate, as might an action plan or risk assessment, which is agreed with the individual and regularly reviewed.
8. If it is determined that, whilst the behaviour is not sufficiently serious to make a referral to the LADO, nonetheless merits consulting with and seeking advice from the LADO, on a no names basis if necessary, then action (if any advised) should be taken in accordance with the LADO's advice.
9. If it is determined that, the behaviour, when considered with any other low-level concerns previously shared about the same individual, could now meet the threshold of an allegation, or in and of itself meets the threshold of an allegation, then it should be referred to the LADO.
10. Some low-level concerns may also raise issues of misconduct or performance. The Head Teacher/nominated governor should consider whether this is the case and take advice from HR where necessary.

In all cases where a nominated governor is dealing with a low-level concern relating to a head teacher, it is strongly advised that guidance and advice is immediately sought from the HR Director.