



KINGSWAY COMMUNITY TRUST

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DEALING WITH ALLEGATIONS AND LOW-LEVEL CONCERNS AGAINST STAFF POLICY

March 2024

Allegations Against Staff Policy

Date: March 2024

Review date: Spring 2026

1. Introduction

- 1.1 This policy takes into account the Department for Education (DfE) statutory guidance document [‘Keeping Children Safe in Education \(KCSIE\)’](#) and ‘Working Together to Safeguard Children’ - a guide to inter-agency working to safeguard and promote the welfare of children, December 2023.
- 1.2 This guidance will be used alongside the Trust’s Safeguarding Policy and procedures, Code of Conduct and the Disciplinary and Dismissal Policy.

2. Scope

- 2.1 This guidance applies to all employees supply/agency staff, contractors, external consultants and volunteers including Trustees and Governors.
- 2.2 This policy sets out how the Trust will manage allegations and low-level concerns raised in relations to an individual that works with children. It provides guidance and information for staff, parents, carers and pupils regarding the investigation and management of allegations of abuse and low level concerns.
- 2.3 This policy applies to allegations and concerns raised within the school and allegations and concerns made within an individual’s private/personal life.
- 2.4 Allegations against a person who is no longer employed at the Trust should be referred to the Local Authority Designated Officer (LADO) and/or the police. As a former employee, there is an obligation that the Trust ensure allegations are dealt with appropriately and liaison and information sharing with relevant parties and agencies takes place.
- 2.5 We will promote an open and transparent culture in which all concerns about all adults working in or on behalf of the school (including supply teachers, volunteers and contractors) are dealt with promptly and accurately.

3. Legislation/Framework

- 3.1 This guidance takes account of the following legislation
 - The Children Act 1989
 - Section 175 of the Education Act 2002 (local authorities, governing bodies of maintained schools and institutions in the further education sector)
 - Section 157 of the Education Act 2002 and the Education (Independent School Standards) (England) Regulations of 2010
 - The Children Act 2004
 - Section 11 of the Children Act 2004 (other agencies)
 - Data Protection Act 2018, General Data Protection Regulation (GDPR)

4. Concerns Or Allegations That May Meet The Harm Threshold (KCSIE Part 4, Section 1)

4.1 Initial Response and Reporting

- 4.1.1 All concerns of poor practice or possible child abuse by staff must be reported immediately to the Executive Headteacher (EHT) or Designated Safeguarding Lead (DSL). Complaints regarding the Executive Headteacher should be reported to the Chair of the Trust Board.
- 4.1.2 The person/s who has witnessed the incident or has had an allegation disclosed to them, will make an immediate record which should include as much detail as possible; for example, the time, the date, place of incident and/or disclosure, persons present, what was witnessed, what was said etc. The account should be signed and dated.
- 4.1.3 The person subject to the allegation will not be approached at this stage unless it is necessary to address the immediate safety of children.
- 4.1.4 The EHT or DSL may conduct basic enquiries to establish the facts and identify any key information, however, formal interviews or further questioning of witnesses should not take place until LADO advice has been sought. This is important if police involvement is necessary as further questioning of witnesses may have a negative impact on the criminal case.
- 4.1.5 It may be necessary to contact the police immediately, and in advance of consultation with the LADO, for example, if the accused individual is deemed to be an immediate risk to children or there is evidence of a possible criminal offence. Police reporting in these circumstances will not be delayed and the LADO will be notified as soon as practically possible.

4.2 Referral to the Designated Officer

- 4.2.1 When a concern is reported or an allegation is made that meets the criteria set out below, the EHT (or other relevant senior leadership team member) must make a referral to the LADO **immediately and within 24 hours**:

An individual 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 he or she may pose a risk of harm to children, and/or
- Behaved or may have behaved in a way that indicates they may not be suitable to work with children.

- 4.2.2 The LADO has a statutory duty to ensure all allegations about safeguarding are handled properly and expeditiously. The Headteacher will seek advice from the LADO and also from the school's HR provider.
- 4.2.3 The LADO will liaise with the Headteacher or senior leader to consider the nature, content and context of the allegation and agree a course of action. The LADO may require further relevant information such as employment history and whether similar or previous allegations have been made against the individual.

- 4.2.4 The LADO will determine whether the matter warrants immediate police involvement if the person is deemed to be an immediate risk to children or there is evidence of a possible criminal offence.
- 4.2.5 The LADO will determine whether the matter warrants a referral to Children's Social Care if there is cause to suspect that a child is suffering or is likely to suffer significant harm.
- 4.2.6 The LADO will consider whether the information provided meets the threshold to hold a strategy/initial consideration meeting, at which the school would attend. The school's internal investigation will remain on hold pending this meeting.

4.3 Consideration of Suspension From Duty

- 4.3.1 Once the allegation or concern is known, the EHT will make a decision whether it is appropriate for the individual to remain in school. The EHT will seek advice from the LADO and their HR provider at the earliest opportunity when considering whether suspension from duty is appropriate. Any suspension will be conducted in accordance with the Trust's disciplinary policy.
- 4.3.2 Whilst suspension should not be the default position as a result of an allegation, the EHT must determine whether there is the potential risk of harm to a child/children or a risk of interference with ongoing investigations should the individual remain in school. The EHT must assess whether the individual can be moved to an alternative position with a risk assessment in place as a reasonable alternative to suspension.
- 4.3.3 It may be appropriate to consider temporary alternative arrangements (such as working from home, paid leave of absence, a move to temporary duties, a change of work location or working in a more closely supervised environment) for a temporary period, until further information and/or advice is sought.
- 4.3.4 The EHT will seek HR advice before carrying out a suspension. Where suspension is appropriate the employee will receive written confirmation of this within one working day and will be informed of the reason for the suspension. This will be reviewed in accordance with the Trust's disciplinary policy.
- 4.3.5 The EHT will liaise with the Trust's HR Provider to agree the details of the allegations to be set out in the suspension letter taking into consideration any Local Authority or criminal investigations.

Supply staff, volunteers and contractors

- 4.4.1 Any allegation or concern raised against a supply member of staff, a contractor or a volunteer working in school, will be dealt with in accordance with 4.1 and 4.2 above. The EHT will follow the same process in considering the allegation and liaison with the LADO, as well as informing other agencies as appropriate. The EHT will follow advice and requests from the LADO, which may include taking the lead in order to establish the facts.
- 4.4.2 The EHT will consider whether suspension of services is appropriate whilst an investigation ensues and will liaise with the supply agency/contractor as appropriate.
- 4.4.3 Disciplinary procedures can only be instigated for employees of the Trust. Where the person is an agency worker or contractor, the Trust should liaise with their employer as appropriate, following advice from the LADO, HR, and police as necessary.

4.4.4 The same process will be followed when the Trust receives an allegation of an incident occurring while an individual or organisations was using the school premises to run activities for children.

4.5 Investigation/s

4.5.1 The LADO will invite relevant Local Authority officers, the police and the EHT (or a designated Trustee/Governor if the allegation is against the EHT) to the strategy meeting. The Trust's HR representative or other professional adviser may also attend the meeting with or on behalf of the Trust.

4.5.2 In the strategy meeting, the agencies involved will share all relevant information they hold about the person who is the subject of the allegation, and about the alleged victim. The LADO will agree the next steps with regards to the allegations, i.e., police investigation, Local Authority intervention or Trust action.

4.5.3 A full disciplinary investigation should not be started by the Trust until recommendations have been made by the LADO and other parties at the strategy meeting. To do so could potentially compromise investigations by the police or the Local Authority.

4.5.4 If after initial discussions with the LADO, or after an initial strategy meeting, it is decided that it is appropriate for the Trust to proceed with the matter under the Trust's disciplinary procedures, the Trust should take account of any recommendations from the LADO and/or strategy meeting and should liaise with the LADO as appropriate.

4.5.5 The internal school investigation should be carried out in accordance with the Trust's Disciplinary and Dismissal Policy and Procedure.

4.6 Supporting Those Involved - The Employee

4.6.1 The Trust Board, as the employer, has a duty of care to its employees and will do everything within its power to manage and minimise the stress of any allegation and any subsequent disciplinary process.

4.6.2 The person who is subject to investigation will be informed as soon as possible after an allegation has been made and the likely course of action, subject to guidance from the LADO and the police. If the police or social services are to be involved, they will be contacted before the employee to seek advice as to what information may be disclosed to the person under investigation.

4.6.3 A named representative will keep the employee informed of the progress of the case and any other work-related issues taking into consideration their wellbeing. The employee may need additional support and the Trust will consider what might be appropriate to best accommodate this support (e.g. access to welfare counselling or medical advice).

The Person(s) who makes the allegation and their parents/carers

4.6.4 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.

4.6.5 Any child/children that makes an allegation against an adult will be offered support in school, ensuring specialist advice and guidance is obtained and acted upon where appropriate.

- 4.6.6 Where Children's Services and/or the police are involved, they may provide the school with advice on additional support the child may need as a result of the allegations.
- 4.6.7 Where an employee makes an allegation or raises a concern about an individual, they will be supported throughout the process, including the opportunity to access specialist support e.g. access to welfare counselling or medical advice.

Parents and Carers

- 4.6.8 Parents and carers will be notified as soon as possible if their child makes or is involved in an allegation against an employee, contractor or volunteer if they are not already aware. However, if the police or children's services are to be involved in the case, advice will be sought from those agencies with regards to what information can be disclosed to the parents.
- 4.6.9 Parents and carers will be kept informed of the progress of the case, only in relation to their child. No information can be shared in relation to the staff member. As stated in KCSIE page 94, point 128 'In deciding what to disclose, careful consideration should be given to the provisions of the Data Protection Act 2018, the law of confidence and, where relevant, the Human Rights Act 1998'.
- 4.3.10 Parents and carers will be made aware of the requirement to maintain confidentiality about any allegations made against teacher whilst investigations are on going.

4.7. Confidentiality

- 4.7.1 Every effort will be made to guard the privacy of all parties during and after any investigation into an allegation. It is in everyone's best interest to maintain this confidentiality to ensure a fair investigation with minimum impact for all parties.
- 4.7.2 Any breach of confidentiality will be taken seriously and may warrant its own investigation. It is a criminal offence to publish information that could lead to the identification of a member of staff who is subject to an allegation.

4.8. Resignations and 'Settlement Agreements'

- 4.8.1 If an employee resigns when an allegation is made against them or during an investigation, the investigation will continue until an outcome has been reached, with or without the employee's cooperation. The employee will be given full opportunity to answer the allegation(s). Settlement Agreements will not be used in situations which are relevant to these procedures (as detailed in Keeping Children Safe in Education).

4.9 Record Keeping

- 4.9.1 Clear records of the allegation(s), investigations and outcomes will be kept securely in accordance with data protection regulations and Trust procedures for employees. The records will be kept, including for people who leave the organization for at least until the person reaches normal retirement age or for 10 years from the date of the allegation, if that is longer.

- 4.9.2 If, after investigation an allegation is found to be malicious, it will be removed from the record of the employee concerned unless the individual consents for the record to be retained on file.
- 4.9.3 Details of any allegation made by a pupil will be kept in the confidential section of their record.
- 4.9.4 Records must not be kept for those who are not employees. Any details relating to allegations for others must be sent to their employer.

4.10. References

- 4.10.1 Substantiated safeguarding allegations that meet the harm threshold should be included in references, provided the information is factual and does not include opinions. The EHT may seek HR advice prior to the completion of any employment reference.

4.11. Action Following a Criminal Investigation or Prosecution

- 4.11.1 The police or the Crown Prosecution Service (CPS) should inform the Trust and LADO straightaway when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to prosecute after the person has been charged.
- 4.11.2 In those circumstances the LADO should discuss with the EHT whether any further action, including disciplinary action, is appropriate and if so how to proceed. The Trust will also seek advice from their HR provider in these circumstances.
- 4.11.3 In cases where criminal action is not taken i.e. charge or prosecution, this does not prevent the Trust from taking disciplinary action in accordance with the disciplinary policy if deemed appropriate.

4.12. Action on Conclusion of a Case

- 4.12.1 Where an allegation(s) against an employee is/are substantiated it may be necessary to make a referral to the appropriate Statutory Regulatory Authority.
- 4.12.2 Schools are legally required to refer cases to the Disclosure and Barring Service (DBS) in cases where an individual is removed from regulated activity (or would have been removed had they not left) and they believe the individual has:
 - Engaged in relevant conduct in relation to children and/or adults, and/or
 - Satisfied the harm test in relation to children and/or vulnerable adults, and/or
 - Been cautioned or convicted of a relevant (automatic barring either with or without the right to make representations) offence
- 4.12.3 Where an individual is dismissed in the above circumstances or would have been dismissed had they not resigned, retired, been made redundant or transferred to a post not involving a regulated activity, and where the circumstances of the case meet the relevant thresholds, the details of the case must be referred to the DBS for consideration of whether inclusion on the barred list is required.
- 4.12.4 Where a teacher is dismissed for serious misconduct or their services are ceased, consideration must be given as to whether a referral to the Teaching Regulation Agency (TRA) which will consider whether a prohibition order is appropriate. Referral also applies where a teacher would have been dismissed (on

the basis of evidence gathered in the investigation) had they not resigned, retired or otherwise left their post.

4.12.5 The Trust's HR provider will support the EHT (or Chair of the Trust Board in the case of the EHT) with the above referrals.

4.13. Action in the Case of a False or Malicious Allegations

4.13.1 Where an allegation is made by a child and is proven to be false or malicious, the EHT will consider the appropriate next steps and may refer to Children's Services to determine whether the child requires support. The school's promoting positive behaviour policy sets out the disciplinary action that may be taken against pupils who are found to have made malicious accusations against school staff. The EHT may consult the school Trustees when considering action to take.

4.13.2 Where an allegation is made by an employee and is proven to be false or malicious, the EHT will consider any further action that may be appropriate including training, supporting and/or disciplinary action.

4.13.3 Where an allegation is made by an adult and is proven to be malicious, the Trust will pass the information to the police who may take further action against that person.

4.13.4 Where the allegation is made against an employee and proven to be malicious, the Trust will provide further support to the employee as required.

4.14. Follow up Action

4.14.1 No matter what the outcome is of an allegation of abuse against a member of staff, the Trust will review the case to see if there are any improvements that can be made in its practice or policy that may help it deal with cases in the future.

5. LOW LEVEL CONCERNS Part four KCSIE Section two

5.1 Recognising Low Level Concerns

5.1.2 Low level concerns are defined in KCSIE as any concern – no matter how small, and even if no more than causing a sense of unease or a 'nagging doubt' - that an adult working in or on behalf of the school or college may have acted in a way that:

- Is inconsistent with the staff code of conduct, including inappropriate conduct outside of work and
- Does not meet the harm threshold or is otherwise not serious enough to consider a referral to the LADO

5.2 Sharing Low Level Concerns

5.2.1 All staff must share any and all concerns they have about adults working in, or on behalf of the school.

5.2.2 It is critical that staff understand their role in recognising and reporting low level concerns to create and embed a culture of openness, trust and transparency in which the school's values and expected behaviour set out in the staff code of conduct are lived, monitored and reinforced constantly by all staff. We will create this culture by:

- Ensuring staff are clear about what appropriate behaviour is, and are confident in distinguishing expected and appropriate behaviour from concerning, problematic or inappropriate behaviour, in themselves and others
- Empowering staff to share any low-level concerns without delay
- Empowering staff to self-refer
- Addressing unprofessional behaviour and supporting the individual to correct it at an early stage
- Providing a responsive, sensitive and proportionate handling of such concerns when they are raised
- Identifying and acting upon any weakness in the school's safeguarding system
- Follow up any actions necessary including training needs and review any behavior concerns.

5.2.3 All low-level concerns should be reported to the EHT or DSL. Concerns about the EHT should be reported to the Chair of Trustees. The procedure for reporting low-level concerns is consistent with that for reporting allegations outlined in 4.1 of this policy.

5.2.4 Staff do not need to determine whether their concern meets the threshold set out in 4.2.1 or is a low-level concern. This will be determined by the EHT, DSL or Chair of Trustees as appropriate once the issue is reported.

5.2.5 If there is any doubt as to whether the information which has been shared about an adult as a low-level concern in fact meets the harm threshold, the EHT will consult with the LADO.

5.3 Responding to low level concerns

5.3.1 The EHT or senior leader, will review the concern to confirm that it is not a more serious issue that should be dealt with as an allegation. An issue reported as a low-level concern would be dealt with as an allegation where it meets the threshold set out in 4.2.1 or there is a pattern of low-level concerns expressed about the individual or wider staff practices generally. If necessary, the concern will be discussed with the LADO to determine whether it meets the harm threshold and should be dealt with as an allegation.

5.3.2 The EHT or senior leader, will discuss the concern with the individual who raised it and will investigate it as appropriate. If the concern has been raised via a third party, evidence will be collected by speaking directly to the person who raised the concern, the individual involved and any witnesses.

5.3.3 Most low-level concerns are likely to be minor and can be dealt with by means of management support or additional training. Where necessary, action may be taken in accordance with the Disciplinary & Dismissal policy.

5.3.4 Where a low-level concern is raised about a member of supply staff or a contractor, the concern will be shared with supply agency so that they can take appropriate steps in accordance with their own policies and statutory guidance.

5.4 Recording low level concerns

5.4.1 All low-level concerns will be recorded in writing and will include details of the concern, the context and action taken; to include the date the behaviour has been reviewed any further actions. The records will be kept confidential and held securely in accordance with the Data Protection Act 2018 and the UK General Data Protection Regulation.

5.4.2 Records of low-level concerns will be reviewed so that potential patterns of concerning, problematic or inappropriate behaviour can be identified. If patterns are identified, the EHT will decide on an appropriate course of action, and will refer the matter to the DO where the behaviour moves from a concern to meeting the threshold for an allegation set out in 4.2.1 this policy.

5.4.3 The record of the low-level concern will be kept at least until the person leaves the Trust.

5.5 References

5.5.1 Low-level concerns should not be included in references unless:

- They relate to issues which would normally be included in a reference, for example, misconduct or poor performance.
- Low-level concern which relates exclusively to safeguarding (and not to misconduct or poor performance) should not be referred to in a reference.

6. Further Information

6.1.1 For further information please see:-

- Department of Education statutory guidance - Keeping children safe in education (KCSIE) September 2023 Part four: Safeguarding concerns or allegations made against staff including supply teachers, volunteers and contractors

7. Reviews

The Trust Board will ensure that there is a review this guidance at least every two years or where there is a change in legislation of regulations.

Issue Status

Date	Issue Name	Date approved by Trustees	Review date
December 2017	December 2017	26 March 2018	Autumn 2022
To take into account advice issued by the Department for Education (DfE) – Keeping Children Safe in Education (September 2016) and Working Together to Safeguard Children (February 2017)			
March 2022	Version 2 – March 2022		Spring 2024
March 2024	Version 3 – March 2024	25.3.24	Spring 2026
To take into account advise issues by the DFE KCSIE September 2023 and Working Together to Safeguard Children (December 2023)			

