



# Warrington Primary Academy Trust

Allegations of Abuse Policy

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## Policy Responsibilities and Review

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## 1. Introduction

Allegations of Abuse made against teachers, including supply teachers, other staff, volunteers (including governors / trustees) and contractors:

- 1.1 WPAT and its schools take their collective responsibility for the care for its students seriously. We have procedures dealing with concerns and/or allegations against those working in or on behalf of schools in a paid or unpaid capacity, this includes, members of staff, supply teachers, volunteers (including governors / trustees) and contractors, referenced in the remainder of this document as 'staff'.
- 1.2 Any investigation of an allegation of abuse against a member of staff must follow the objective and professional standards and procedures described here.
- 1.3 Keeping Children safe in Education 2023 Part 4 provides guidance for the new definition of "harms" This updated policy now has two sections covering the two levels of allegation/concern:
  - Allegations/concerns that **may** meet the harm threshold.
  - Allegation/concerns that **do not** meet the harm threshold – referred to for the purposes of the KCSIE guidance as 'low level concerns'. ( See WPAT Advice and Guidance for LLC)
- 1.4 These procedures should be consistent with local safeguarding procedures and practice guidance and 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 (FE) sector)
  - Section 157 of the Education Act 2002
  - The Education (Independent School Standards) (England) Regulations 2014
  - The Children Act 2004 ( Amended by Social Work Act 2017)
  - Section 11 of the Children Act 2004 (other agencies)
  - Keeping Children Safe in Education September 2023
  - 'Working Together to Safeguard Children: 2018 (see P8 for legislation)
- 1.5 The framework for managing cases of allegations of abuse against people who work with children is set out in 'Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children' (March 2015, updated 2018), which provides an overview of how allegations should be handled.
- 1.6 The WPAT procedure for dealing with allegations against staff depends on the situation and circumstances surrounding the allegation. This policy aims to strike a balance between the need to protect children from abuse and the need to protect staff and other adults from false or unfounded allegations. It must be followed when dealing with allegations, but may be adapted to each case. This policy will be used alongside the Trust's Disciplinary Procedures.

## 2. Section One: Allegations that may meet the harms threshold

- 2.1 Any allegation of abuse by a member of staff, or other adult, of a student must be reported to the Headteacher. In the case of an allegation about a Headteacher it must be reported to the CEO. In the case of the CEO it should be made to the Chair of Trustees. If about the Chair of Trustees it should be made to the Chair of Members. Should the initial allegation first be made to any other member of staff, then that member of staff must either request the person raising the allegation to report it to the responsible person above or, if that is not possible, to pass details of the allegation to the responsible person (in the majority of time would be Headteacher) immediately. When an allegation meets the harms threshold it will indicate a person would pose a risk of harm if they continue to work in their present position, or in any capacity with children in a school. This guidance should be followed where it is alleged that anyone working in the school that provides education for children under 18 years of age, including supply teachers, volunteers and contractors 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.
- 2.2 The last bullet point above includes behaviour that may have happened outside of school, that might make an individual unsuitable to work with children, this is known as transferable risk.
- 2.3 Where appropriate an assessment of transferable risk to children with whom the person works should be undertaken. If in doubt seek advice from the Local Authority Designated Officer (LADO).
- 2.4 In most cases the Headteacher will act as “case manager” and will lead any investigation. Where the Headteacher is the subject of an allegation, the Chair of Governors (CoG) or CEO will act as case manager. In the case of CEO or trustees the Chair of Board will act as case manager. In the case of Chair of Board the Chair of Members will act as case manager. Headteacher will be used in this policy referring to the ‘case manager’.

## 3. The initial response to an allegation

- 3.1 The Headteacher will keep the matter as confidential as possible and where the Headteacher is not the DSL, she/he will consult with the Designated Safeguarding Lead (DSL) to ensure that they have all potentially relevant information about the child and that appropriate records can be kept on this case on behalf of the child’s vulnerabilities as well as on the staff file.
- 3.2 The Headteacher will refer to previous staff conduct records to establish any potential patterns of behavior before discussing the matter with the LADO. The Headteacher should not investigate the allegation at this stage.
- 3.3 The Headteacher will discuss the matter with the LADO and provide any further details of the allegation and the circumstances in which it was made. The discussion will also consider whether there is evidence or information that establishes that the allegation is false or unfounded. The LADO

and the Headteacher will discuss the nature, content and context of the allegation and agree a course of action to decide whether:

- No further actions are needed.
- A strategy meeting should take place; or
- There should be immediate involvement of the police or social care

- 3.4 If the allegation is not patently false and there is cause to suspect that a child is suffering, or is likely to suffer, harm, the LADO should immediately refer it to children's social care and ask for a strategy meeting, in accordance with 'Keeping Children Safe in Education', statutory guidance from DfE and Working Together to Safeguard Children 2018. The meeting should be convened the same day if possible. The strategy meeting should include the LADO and the Headteacher. The person who is subject to the allegation will not be invited to the strategy meeting, however the strategy meeting will decide when and how the person will be informed. The minutes of the strategy meeting will be circulated by the chair of the meeting.
- 3.5 This Joint Evaluation Discussion must take place within one working day of the referral and must consider how to progress enquiries e.g. a criminal process parallel with a disciplinary process or whether disciplinary actions need to be suspended until police enquiries/prosecution are completed.
- 3.6 The school should expect these investigations to be reviewed by the police no later than four weeks after the Joint Evaluation Discussion has concluded and thereafter at fortnightly or monthly intervals. The school will follow up at each deadline to ensure compliance.
- 3.7 If the police and/or the Crown Prosecution Service (CPS) decide not to charge the individual with an offence, decide to administer a caution, or the person is acquitted by a court, the police should pass all information they have which may be relevant to a disciplinary case to the school without delay. In those circumstances, after seeking advice from WPAT, the Headteacher should deal with the case in consultation with the LADO and in line with school disciplinary policies and the staff code of conduct.
- 3.8 After taking advice from the police, LADO or WPAT, the school will inform the parents of the pupil making the allegation (if this has not already occurred) about the nature of the allegation and the process going forward. An appropriate timeline should be agreed for the next communication or update on the allegation. The member of staff against whom the allegation is made, the CoG and the Trust Resources HR Committee should be informed of the likely course of action and timescale.
- 3.9 After taking advice from the police, LADO or WPAT, the school will inform the parents/carers of the pupil making the allegation (if this has not already occurred) about the nature of the allegation and the process going forward. An appropriate timeline should be agreed for the next communication or update on the allegation. The member of staff against whom the allegation is made, the CoG and the Trust Resources HR Committee should be informed of the likely course of action and timescale.

- 3.10 There are two aspects to consider when an allegation is made:
- **Looking after the welfare of the child** - the designated safeguarding lead is responsible for ensuring that the child is not at risk and referring cases of suspected abuse to the local authority children's social care as described in Part one of the KCSIE guidance
  - **Investigating and supporting the person subject to the allegation** - the case manager should discuss with the LADO, the nature, content and context of the allegation, and agree a course of action

3.11 When dealing with allegations, all WPAT schools will:

- apply common sense and judgment;
- deal with allegations quickly, fairly and consistently; and
- provide effective protection for the child and support the person subject to the allegation

3.12 Our DSL and safeguarding teams will ensure that all staff understand the local authority arrangements for managing allegations, including the contact details, (the name of the LADO is Fiona Cowan and she can be contacted on 01925 443 201) and what information the LADO will require when an allegation is made. Before contacting the LADO, we will always conduct basic enquiries in line with local procedures to establish the facts to help determine whether there is any foundation to the allegation, being careful not to jeopardise any future police investigation. For example:

- was the individual in the school at the time of the allegations?
- did the individual, or could they have, come into contact with the child?
- are there any witnesses? and,
- was there any CCTV footage?

When to inform the individual of the allegation should be considered carefully on a case by case basis, with guidance as required from the LADO, and if appropriate children's social care and the police.

3.13 If there is cause to suspect a child is suffering, or is likely to suffer significant harm, a strategy discussion involving the police and/or children's social care will be convened in accordance with the statutory guidance [Working Together to Safeguard Children](#). If the allegation is about physical contact, for example restraint, the strategy discussion or initial evaluation with the LADO should take into account that teachers and other school staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour. Further information about the use of reasonable force can be found at paragraph 163 in Part 2 of the KCSIE guidance 2023 and on [GOV.UK](#).

3.14 Where the case manager is concerned about the welfare of other children in the community or the member of staff's family, they should discuss these concerns with the designated safeguarding lead and make a risk assessment of the situation. It may be necessary for the designated safeguarding lead to make a referral to children's social care. Where it is clear that an investigation by the police or children's social care is unnecessary, or the strategy discussion or initial assessment decides that

is the case, the LADO should discuss the next steps with the case manager.

- 3.15 Where the initial consideration decides that the allegation does **not** involve a possible criminal offence, it will be for the Headteacher to deal with it in line with the staff code of conduct. In such cases, if the nature of the allegation does not require formal disciplinary action, the Headteacher should institute appropriate action within three working days. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days.
- 3.16 In any case in which children's social care has undertaken enquiries to determine whether the child or children are in need of protection, the Headteacher and Chair of Governors/Trustees should take account of any relevant information obtained in the course of those enquiries when considering disciplinary action.
- 3.17 Where allegations are made against an ex member of staff we will follow the same procedures for referral. The Headteacher should ensure that the Director of Finance and Operations is informed so that the Trust can manage any media attention. All relevant personnel records, logs, safeguarding training records and previous interventions should be collected for evidence.

#### 4. No further action

- 4.1 Where the initial discussion leads to no further action, the case manager and the LADO should:
  - record the decision and justification for it; and
  - agree on what information should be put in writing to the individual concerned and by whom.

#### 5. Further Enquiries

- 5.1 Where further enquiries are required to enable a decision about how to proceed, the LADO and case manager should discuss how and by whom the investigation will be undertaken. In straightforward cases, the investigation should normally be undertaken by a senior member of the school's staff.
- 5.2 Where there is a lack of appropriate resource within the school or the nature or complexity of the allegation requires it, the allegation will require an independent investigator. Many local authorities provide for an independent investigation of allegations for schools that are maintained by the local authority, often as part of the HR/personnel services that schools can buy in from the authority. It is important that local authorities ensure that schools in that area have access to an affordable facility for independent investigation where that is appropriate. Academies and independent schools should also ensure they secure the services of a person who is independent of the school.
- 5.3 The case manager should monitor the progress of cases to ensure that they are dealt with as quickly as possible in a thorough and fair process. Reviews should be conducted at fortnightly or monthly intervals, depending on the complexity of the case.
- 5.4 Wherever possible, the first review should take place no later than four weeks after the initial assessment. Dates for subsequent reviews, ideally at fortnightly intervals, should be set at the review meeting if the investigation continues. The LADO will provide advice and guidance to schools when considering allegations against adults working with children. The LADO's role is not to investigate the allegation, but to ensure that an appropriate investigation is carried out, whether that is by the



police, children's social care, the school, or a combination of these.

## 6. Supply Teachers and all contract staff

- 6.1 In some circumstances schools will have to consider an allegation against an individual not directly employed by them, where its disciplinary procedures do not fully apply because agencies will have their own policies and procedures; for example, supply teachers or contracted staff provided by an employment agency or business.
- 6.2 Whilst schools are not the employer of supply teachers, they should ensure allegations are dealt with properly. In no circumstances should a school decide to cease to use a supply teacher due to safeguarding concerns, without finding out the facts and liaising with the LADO to determine a suitable outcome. Governing Committees should discuss with the supply agency or agencies where the supply teacher is working across a number of schools, whether it is appropriate to suspend the supply teacher, or redeploy them to another part of the school, whilst they carry out their investigation.
- 6.3 Agencies should be fully involved and co-operate with any enquiries from the LADO, police and/or children's social care. The school will usually take the lead because agencies do not have direct access to children or other school staff, so they will not be able to collect the facts when an allegation is made, nor do they have all the relevant information required by the LADO as part of the referral process. Supply teachers, whilst not employed by the school, are under the supervision, direction and control of the governing committee / Headteacher when working in the school. They should be advised to contact their trade union representative if they have one, or a colleague for support. The allegations management meeting which is often arranged by the LADO should address issues such as information sharing, to ensure that any previous concerns or allegations known to the agency or agencies are taken into account by the school during the investigation.
- 6.4 When using a supply agency, schools should inform the agency of its process for managing allegations but also take account of the agency's policies and their duty to refer to the DBS as personnel suppliers. This should include inviting the agency's human resource manager or equivalent to meetings and keeping them up to date with information about its policies.

## 7. Governors and Trustees

- 7.1 If an allegation is made against a governor, schools should follow their own local procedures. Where an allegation is substantiated, they should follow the procedures to consider removing them from office.
- 7.2 If an allegation is made against a Trustee, the Chair of the Trust will be the case manager. Where the allegation is about the Chair of the Trust, the Chair of Members would be the case manager. Where an allegation is substantiated, they should follow the procedures to consider removing them from office.

## 8. Suspension

- 8.1 Suspension should not be an automatic response when an allegation is reported. All options to avoid suspension should be considered prior to taking that step. The case manager must consider carefully whether the circumstances warrant suspension from contact with children at the school, or until the allegation is resolved. It should be considered only in cases where there is cause to suspect a child or other children at the school is/are at risk of harm, or the case is so serious that it might be grounds for dismissal. If in doubt, the case manager should seek views from their personnel adviser and the LADO, as well as the police and children's social care where they have been involved.
- 8.2 Where a school is made aware that the Secretary of State has made an interim prohibition order, in respect of an individual who works at a school, they should take immediate action to ensure the individual does not carry out work in contravention of the order. This means that pending the findings of the investigation, the individual must not carry out teaching work. School should have clear policies on pay arrangements whilst the person is suspended or where there is an interim prohibition order in place.
- 8.3 In many cases, an inquiry can be resolved quickly and without the need for suspension. The employer will decide on whether the individual should continue to work at the school, based on consultation with the LADO who will provide relevant information they have received from the police or children's social care on whether they have any objections to the member of staff continuing to work during the investigation of the case. The case manager should aim, as far as possible, to avoid suspension.
- 8.4 Based on advice from the school HR provider and/or a risk analysis drawn up with the LADO, the following alternatives should be considered by the case manager before suspending a member of staff:
- redeployment within the school so that the individual does not have direct contact with the child or children concerned;
  - providing an assistant to be present when the individual has contact with children;
  - redeploying to alternative work in the school so the individual does not have unsupervised access to children;
  - moving the child or children to classes where they will not come into contact with the member of staff, but this decision should only be made if it is in the best interest of the child or children concerned and takes accounts of their views. It should be made making it clear that this is not a punishment and parents have been consulted; or temporarily redeploying the member of staff to another role in a different location, for example to an alternative school or where available, work for the local authority or academy trust.
- 8.5 These alternatives allow time for an informed decision regarding the suspension, this will, however, depend upon the nature of the allegation. The case manager should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unfounded, unsubstantiated, malicious, or false.

- 8.6 If immediate suspension is considered necessary, the case manager should record the rationale and justification for such a course of action. This should also include what alternatives to suspension have been considered and why they were rejected.
- 8.7 Where it has been deemed appropriate to suspend (where there is cause to suspect a child or other children at the school is or are at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal) the person, written confirmation should be given within one working day, giving as much detail as appropriate for the reasons for the suspension. It is not acceptable for an employer to leave a person who has been suspended without any support. The person should be informed at the point of their suspension who their named contact is within the organisation and provided with their contact details.
- 8.8 Children's social care or the police may give their view to the LADO but they cannot require the case manager to suspend a member of staff or a volunteer, although the case manager should give appropriate weight to their views. The power to suspend is vested in the governing committee who are the employers. However, where a strategy discussion, or initial assessment, concludes that there should be enquiries by the children's social care, and/or an investigation by the police, the LADO should canvass police and children's social care for views about whether the accused member of staff should be suspended from contact with children. Police involvement does not make it mandatory to suspend a member of staff; this decision should be taken on a case-by-case basis having undertaken a risk assessment about whether the person poses a risk of harm to children.

## 9. Supporting those involved

- 9.1 The welfare of a child is paramount (how children should be protected and supported is set out throughout the KCSIE guidance 2023) and this will be the prime concern in terms of investigating an allegation against a person in a position of trust. However, when an allegation or safeguarding concern is being investigated it is likely to be a very stressful experience for the adult subject of the investigation, and potentially for their family members. It is important that an employer offers appropriate welfare support at such a time and recognises the sensitivity of the situation. Information is confidential and should not ordinarily be shared with other staff or with children or parents who are not directly involved in the investigation.
- 9.2 Employers have a duty of care to their employees. They should:
- manage and minimise the stress caused by the allegation;
  - inform the individual as soon as possible, explaining the likely course of action, guided by the LADO, and the police where necessary;
  - advise the individual to contact their trade union representative, or a colleague for support;
  - appoint a named representative to keep the person informed about progress of the case;
  - provide access to counselling or medical advice where appropriate. For staff in schools maintained by the local authority this may include support via the local authority's occupational health arrangements; and
  - not prevent social contact with work colleagues and friends, when staff are suspended, unless there is evidence to suggest this may prejudice the gathering of evidence.

- 9.3 Parents or carers of the child or children involved should be:
- formally told about the allegation as soon as possible. The case manager should consult the LADO and where involved children’s social care and/or the police on what information can be disclosed;
  - kept informed about the progress of the case, only in relation to their child - no information can be shared regarding the staff member; and
  - made aware of the requirement to maintain confidentiality and unwanted publicity about any allegations made against teachers in schools whilst investigations are in progress as set out in section 141F of the Education Act 2002

## 10. Confidentiality and Information sharing

- 10.1 In an allegations management meeting or during the initial assessment of the case, the agencies involved should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim, see KCSIE 2023, Part four, about information sharing.
- 10.2 Where the police are involved, wherever possible the school should ask the police to obtain consent from the individuals involved to share their statements and evidence for use in the employer’s disciplinary process. This should be done as their investigation proceeds and will enable the police to share relevant information without delaying the conclusion of their investigation or any court case.
- 10.3 Children’s social care should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are in need of protection or services, so that any information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to the employer without delay.
- 10.4 The school must make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2011 amended the Education Act 2002, to introduce reporting restrictions. These provisions made it an offence (except in the limited circumstance expressly permitted by the legislation), for any person to publish any material that may lead to the identification of a teacher in a school who has been accused by, or on behalf of, a child from the same school (where that identification would identify the teacher as the subject of the allegation).
- 10.5 The reporting restrictions apply until:
- the point that the accused person is charged with a relevant offence; or
  - the Secretary of State or the General Teaching Council for Wales publishes information about an investigation or decision in a disciplinary case arising from the allegation.
- 10.6 The reporting restrictions are disapplied if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a court lifts the reporting restrictions in response to a request to do so.
- 10.7 The legislation prevents the “publication” of material by any person that may lead to the

identification of the teacher who is the subject of the allegation. "Publication" includes "any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public." This means that a parent who, for example, published details of the allegation on a social networking site would be in breach of the reporting restrictions (if what was published could lead to the identification of the teacher by members of the public). In circumstances where schools need to make parents aware about an allegation, they should make parents and others aware that there are restrictions on publishing information.

- 10.8 In accordance with the Authorised Professional Practice published by the College of Policing in May 2017, the police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. In exceptional cases where the police wish to depart from that rule, for example an appeal to trace a suspect, they must apply to a magistrates' court to request that reporting restrictions be lifted.
- 10.9 The case manager should take advice from the LADO, police and children's social care to agree the following:
- who needs to know and exactly what information can be shared;
  - how to manage speculation, leaks and gossip;
  - what, if any, information can be reasonably given to the wider community to reduce speculation; and
  - how to manage press interest if, and when, it should arise.
  - in deciding what information is disclosed, careful consideration should be given to the provisions of the Data Protection Act 2018, the law of confidence and, where relevant, the Human Rights Act 1998.

## 11. Allegation outcomes

- 11.1 The definitions that should be used when schools determine the outcome of an allegation are set out below:
- **Substantiated:** there is sufficient evidence to prove the allegation;
  - **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive or cause harm to the person subject of the allegation;
  - **False:** there is sufficient evidence to disprove the allegation;
  - **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence; or,
  - **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made.
- 11.2 Ultimately the options open to the school depend on the nature and circumstances of the allegations and the evidence and information available. This will range from taking no further action, to dismissal or a decision not to use the person's services in future. Suspension should not be the default position, an individual should be suspended only if there is no reasonable alternative.
- 11.3 The employer has a legal duty to make a referral to the DBS for consideration of whether inclusion

on the barred lists is required. There is a legal requirement for employers to make a referral, **within one week of the report completion**, to the DBS where they consider 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 .

## 12. Following a criminal investigation or a prosecution

12.1 The police should inform the LADO and the employer immediately when:

- a criminal investigation and any subsequent trial is complete,
- it is decided to close an investigation without charge, or
- it is decided not to continue to prosecute after the person has been charged.

In those circumstances, during the joint assessment meeting the LADO should discuss with the case manager whether any further action, including disciplinary action, is appropriate and, if so, how to proceed. The information provided by the police and/or children's social care should also inform that decision. The options will depend on the circumstances of the case and the consideration should take into account the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

## 13. Unsubstantiated, unfounded, false or malicious allegations

13.1 If an allegation is determined to be unsubstantiated, unfounded, false or malicious, the LADO and the case manager should consider whether the child and/or the person who has made the allegation is in need of help or may have been abused by someone else and this is a cry for help. In such circumstances, a referral to children's social care may be appropriate.

13.2 If a report is determined to be unsubstantiated, unfounded, false or malicious, the designated safeguarding lead should consider whether the child and/or the person who has made the allegation is in need of help or may have been abused by someone else and this is a cry for help. In such circumstances, a referral to children's social care may be appropriate. If a report is shown to be deliberately invented or malicious, the school should consider whether any disciplinary action is appropriate against the individual who made it as per their own behaviour policy.

## 14. Returning to work

14.1 Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the case manager should consider how best to facilitate that. Guidance and advice are usually provided via HR or the LADO. Most people will benefit from some help and support to return to work after a stressful experience. Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The case manager should also consider how the person's contact with the child or children who made the allegation can best be managed if they are still attending the school.

## 15. Managing the situation and exit arrangements

- 15.1 'Settlement agreements' (sometimes referred to as compromise agreements), by which a person agrees to resign if the employer agrees not to pursue disciplinary action and both parties agree a form of words to be used in any future reference, should not be used, where there are allegations that indicate the person is a risk or poses a risk of harm to children or deemed not suitable to work with children. Such an agreement will not prevent a thorough police and/or school investigation where that is appropriate.
- 15.2 Schools should not cease their investigations if the person leaves, resigns or ceases to provide their services. It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate.
- 15.3 Wherever possible, the accused should be given full opportunity to answer the allegation and make representations about it. The process of recording the allegation and any supporting evidence and reaching a judgment about whether it can be substantiated or otherwise on the basis of all the information available, should continue even if the accused does not cooperate. It may be difficult to reach a conclusion in those circumstances, and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record an outcome wherever possible. The person concerned should be notified of the conclusion of the allegations and sanctions that might be posed.
- 15.4 Other than where allegations are false, malicious, unsubstantiated, or unfounded, the outcome should be made clear when providing references to prospective employers. This is particularly important where the person moves into another position involving working with children.
- 15.5 It is not appropriate to reach a settlement/compromise agreement if the person subject to the allegation resigns or their services cease to be used. However, in limited circumstances schools sometimes use settlement agreements to end the employment relationship on agreed terms, but not where there is an allegation that the individual poses a risk to children.
- 15.6 Where a settlement/compromise agreement is used, schools should not let it prevent the employer from:
- fulfilling their legal duty to refer cases to the DBS where the referral criteria are met. Non-compliance of this duty is a criminal offence; or
  - providing a reference to potential employers when requested; or
  - considering whether to make a referral to the Teaching Regulations Agency where the criteria are met.

## 16. Record keeping

- 16.1 Details of allegations following an investigation that are found to have been malicious or false should be removed from personnel records, unless the individual gives their consent for retention of the information. However, for all other allegations, it is important that the following information

is kept on the file of the person accused:

- a clear and comprehensive summary of the allegation;
- details of how the allegation was followed up and resolved;
- a note of any action taken, and decisions reached and the outcome as categorised above;
- a copy provided to the person concerned, where agreed by children's social care or the police; and,
- a declaration on whether the information will be referred to in any future reference.

16.2 The purpose of the record is to enable accurate information to be given in response to any future request for a reference. It will provide clarification in cases where future DBS checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.

16.3 Schools have an obligation to preserve records which contain information about allegations of sexual abuse for the Independent Inquiry into Child Sexual Abuse (IICSA), for the term of the inquiry (further information can be found on the IICSA website). All other records should be retained at least until the accused has reached normal pension age or for a period of 10 years from the date of the allegation if that is longer.

The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on record retention. This can be found on the ICO website.

## 17. References

17.1 Cases in which an allegation was found to be false, unfounded, unsubstantiated or malicious should not be included in employer references. Any repeated concerns or allegations which have all been found to be false, unfounded, unsubstantiated or malicious should also not be included in any reference. See KCSIE paras 203-205 for further information on references. Substantiated allegations should be included in references, provided that the information is factual and does not include opinions.

## 18. Learning lessons

18.1 Throughout the process in handling allegations and at conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the case manager to determine whether there are any improvements to be made to the school's procedures to help prevent similar events in the future. This should include issues arising from any decision to suspend the member of staff, the duration of the suspension and whether or not suspension was justified. Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated. The LADO and case manager should consider how future investigations of a similar nature could be carried out without suspending the individual.

18.2 For all other cases the case manager should consider the facts and determine whether any



improvements can be made.

## 19. Non recent allegations

- 19.1 Where an adult makes an allegation to a school that they were abused as a child, the individual should be advised to report the allegation to the police. Non recent allegations made by a child, should be reported to the LADO in line with the local authority's procedures for dealing with non-recent allegations. The LADO will coordinate with children social care and the police. Abuse can be reported no matter how long ago it happened.

## 20. Further Information

See the College of Policing: Engagement, Communication and Media relations.

## 21. Section Two: Concerns that do not meet the harm threshold

(Note: WPAT have produced an additional Advice and Guidance document for Low-Level Concerns).

Trusts / Governing Committees should have policies and processes to deal with concerns (including allegations) which do not meet the harm threshold set out above. Concerns may arise in several ways and from a number of sources. For example: suspicion; complaint; or disclosure made by a child, parent or other adult within or outside of the organisation; or as a result of vetting checks undertaken. It is important that schools have appropriate policies and processes in place to manage and record any such concerns and take appropriate action to safeguard children.

## 22. Low-Level Concerns

- 22.1 As part of their whole school approach to safeguarding, schools should ensure that they 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 appropriately.

Creating a culture in which all concerns about adults (including allegations that do not meet the harms threshold are shared responsibly and with the right person, recorded and dealt with appropriately, is critical. If implemented correctly, this should encourage an open and transparent culture; enable schools to identify concerning, problematic or inappropriate behaviour early; minimise the risk of abuse; and ensure that adults working in or on behalf of the school are clear about professional boundaries and act within these boundaries, and in accordance with the ethos and values of the institution.

- 22.2 What is a low Level Concern?

The term 'low-level' concern does not mean that it is insignificant, it means that the behaviour towards a child does not meet the threshold set out in KCSIE paragraph 338. A low-level concern

is any concern – no matter how small, and even if no more than causing a sense of unease or a ‘nagging doubt’ - that an adult working in or on behalf of the school may have acted in a way that:

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

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

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

22.3 Such behaviour can exist on a wide spectrum, from the inadvertent or thoughtless, or behaviour that may look to be inappropriate, but might not be in specific circumstances, through to that which is ultimately intended to enable abuse. It is crucial that any such concerns, including those which do not meet the allegation/harm threshold (see Part Four - Section one), are shared responsibly and with the right person, and recorded and dealt with appropriately. Ensuring they are dealt with effectively should also protect those working in or on behalf of schools from potential false allegations or misunderstandings.

## 23. Staff Code of Conduct and Safeguarding policies

23.1 WPAT follow good practice for governing bodies and Trusts in setting out their low-level concerns advice alongside their staff code of conduct and safeguarding policies as set out in Part two of the KCSIE guidance. They make it clear what a low-level concern is and the importance of sharing low-level concerns, and an explanation of what the purpose of the policy is – i.e. to create and embed a culture of openness, trust and transparency in which the school’s values and expected behaviour which are set out in the staff code of conduct are constantly lived, monitored and reinforced by all staff.

23.2 As set out in the KCSIE guidance, the Trust, via the governing committee, should ensure their staff code of conduct, behaviour policies and safeguarding policies and procedures are implemented effectively, and ensure appropriate action is taken in a timely manner to safeguard children and facilitate a whole school approach to dealing with any concerns.

Schools can achieve the purpose of their low-level concerns policy by, for example:

- ensuring their 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 safeguarding concerns with the designated safeguarding lead (or a deputy);
- 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; and,
- helping identify any weakness in the school safeguarding system.

## 24. Sharing Low Level Concerns

- 24.1 Low-level concerns about a member of staff should be reported to the designated safeguarding lead (or deputy). Where a low-level concern is raised about the designated safeguarding lead, it should be shared with the headteacher or principal.
- 24.2 Schools should ensure they create an environment where staff are encouraged and feel confident to self-refer, where, for example, they have found themselves in a situation which could be misinterpreted, might appear compromising to others, and/or on reflection they believe they have behaved in such a way that they consider falls below the expected professional standards.
- 24.3 Where a low-level concern relates to a person employed by a supply agency or a contractor to work in a school, that concern should be shared with the designated safeguarding lead (or deputy), and/or Headteacher, and recorded in accordance with the school's low-level concern/staff code of conduct advice (and KCSIE paragraph 434 ), and their employer notified about the concern, so that any potential patterns of inappropriate behaviour can be identified.

## 25. Recording Low Level Concerns

- 25.1 All low-level concerns should be recorded in writing by the designated safeguarding lead (or deputy). The record should include details of the concern, the context in which the concern arose, and action taken. The name of the individual sharing their concerns should also be noted, if the individual wishes to remain anonymous then that should be respected as far as reasonably possible.
- 25.2 Schools can decide where these records are kept, but they must be kept confidential, held securely and comply with the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR) (see paragraph 109 for more information).

Records should be reviewed so that potential patterns of concerning, problematic or inappropriate behaviour can be identified. Where a pattern of such behaviour is identified, the school should decide on a course of action, either through its disciplinary procedures or where a pattern of behaviour moves from a concern to meeting the harms threshold, in which case it should be referred to the LADO. Consideration should also be given to whether there are wider cultural issues within the school that enabled the behaviour to occur and where appropriate policies could be revised or extra training delivered to minimise the risk of it happening again.

It is for schools to decide how long they retain such information, but it is recommended that it is retained at least until the individual leaves their employment.

## 26. References

- 26.1 WPAT Schools will only provide substantiated safeguarding allegations in references. 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. It follows that a low-level

concern which relates exclusively to safeguarding (and not to misconduct or poor performance) should not be referred to in a reference. However, where a low-level concern (or group of concerns) has met the threshold for referral to the LADO and found to be substantiated, it should be referred to in a reference.

## 27. Responding to Low Level Concerns

27.1 Concerns about safeguarding should be reported to the designated safeguarding lead or their deputy. The school policy should set out the procedure for responding to reports of low-level concerns. If the concern has been raised via a third party, the designated safeguarding lead should collect as much evidence as possible by speaking:

- directly to the person who raised the concern, unless it has been raised anonymously;
- to the individual involved and any witnesses.

The information collected will help them to categorise the type of behaviour and determine what further action may need to be taken. All of this needs to be recorded along with the rationale for their decisions and action taken.

A good low level concerns policy will simply be a reflection and extension of the school's wider staff behaviour policy/code of conduct.

More detail can be found in - WPAT Advice and Guidance on low-level concerns.