

## Allegations of Abuse Against Adults Policy (including the management of low-level concerns)

This policy is prescribed by The Good Shepherd Trust and is statutory. All references to 'the Trust', includes all Trust schools and subsidiary organisations.

Date adopted:	20/03/2019	Last reviewed:	28/08/2022
Review cycle:	Annual	Is this policy statutory?	Yes
Approval:	CEO	Author:	Alex Clark
Local approval*:		Local author*:	
Next review Date	August 2023		

\* only for policy/procedures that are templates and require local adaptation.

### Revision record

Minor revisions should be recorded here when the policy is amended in light of changes to legislation or to correct errors. Significant changes or at the point of review should be recorded below and approved at the level indicated above.

Revision No.	Date	Revised by	Approved date	Comments
1	20/03/2019	A Johnston	20/03/2019	New Policy
2	01/09/2019	A Johnston	n/a	Updated to align with KCSIE 2019, new LSCP process and for allegations against the HT/EHT to go to the Trust Chair
3	01/09/2020	A Johnston	n/a	Updated to align with KCSIE 2020, including new fourth bullet paragraph 211 checklist and inclusion of supply teachers
4	01/09/2021	A Johnston	n/a	Updated to align with KCSIE 2021 throughout. This includes the insertion of a new section regarding concerns that do not meet the harm threshold.
5	28/8/2022	A Clark	n/a	Updated to align with KCSIE 2022 throughout.

This policy should be read in conjunction with: Code of Conduct, Child Protection & Whistleblowing Policies.

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### 1. INTRODUCTION

- 1.1. These guidelines have been prepared for the management of both low-level concerns and allegations against adults; and for the timely reporting of the same (as required) to the Local Authority Designated Officer (LADO) for the 'management of allegations against adults'.

- 1.2. For the purposes of this policy, the definition of 'staff' applies to the Trust central team, Headteachers, teachers, support staff, supply teachers, contractors, volunteers (including local committee members, Trustee Directors and Members) and all other employees.

## **2. STATUTORY GUIDANCE AND LOW-LEVEL CONCERNS**

2.1. Chapter 2 of [“Working Together to Safeguard Children” \(2018\)](#) sets out the guidance on safeguarding children from people in a position of trust and further detail is provided in Part Four of [Keeping Children Safe in Education 2022](#). (KCSIE)

Employers should have clear policies in line with those from the Local Safeguarding Children's Partnerships - LSCP (in the context of this Policy, the [Hampshire](#) and [Surrey](#) LSCP's have been considered) for dealing with allegations against people who work with children.

An allegation may relate to a person who works with children who 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\* (See Appendix 1 for further guidance)

### Non-recent allegations

Where an adult makes an allegation to a school that they were abused at 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's Services and the police. It is important to note that abuse can be reported no matter how long ago it happened.

2.2. The framework for managing allegations applies to all who work with children and young people under 18 years of age, including those who work in a voluntary capacity. Allegations might indicate that 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 or college.

It is essential that any allegation of abuse made against an adult in a school is dealt with as quickly as possible, in a fair and consistent way that provides effective protection for the child and, at the same time provides appropriate support to the person who is the subject of the allegation.

An integral part of the framework for managing allegations against adults, is the role of the Local Authority Designated Officer (LADO). The LADO is responsible for the management and oversight of individual cases and must be informed of all allegations or concerns relating to staff or volunteers that may fit any of the four criteria, as outlined in 2.1 above.

The LADO will provide advice and guidance to any employer providing services for children. Where necessary they will liaise with Children's Services and other agencies, monitor the progress of cases and work to ensure that all allegations are dealt with appropriately. If an allegation does not meet the harm threshold, it may still be considered as a low-level concern and dealt with in accordance with section 2.3 of this policy.

### 2.3 Concerns that do not meet the harm threshold

The Trust wishes to create and embed a culture of openness, trust, and transparency, in which Trust and school's values and expected behaviour that are set out in the staff code of conduct, are constantly lived, monitored, and reinforced by all those who work with our children.

#### 'Low level' concerns

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 2.1 of this policy and paragraph 355 of [Keeping Children Safe in Education 2022](#). A low-level concern is any concern – no matter how small, and even if no more than causing a sense of unease or a 'nagging doubt' - that an adult working in or on behalf of the school may have acted in a way that:

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

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

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

Such behaviour can exist on a wide spectrum, from the inadvertent or thoughtless, or behaviour that may look to be inappropriate, but might not be in specific circumstances, through to that which is ultimately intended to enable abuse. It is crucial that any such concerns, including those which do not meet the allegation/harm threshold (as detailed in 2.1) are shared responsibly and with the right people, and recorded and dealt with appropriately e.g. in accordance with the Trust's disciplinary process. Ensuring they are dealt with effectively should also protect those working in or on behalf of schools from potential false allegations or misunderstandings.

#### Reporting a low-level concern

Low-level concerns about a member of staff, person employed by a supply agency or contractor should be reported to the Headteacher as soon as is reasonably possible and, in any event, within 24 hours of becoming aware of it (where the concern relates to a particular incident). However, it is never too late to share a low-level concern.

Self-reporting is also encouraged.

External employers e.g. supply agencies should be notified of the concern that has been raised, so that any potential patterns of inappropriate behaviour can be identified.

Where a low-level concern is raised about the Headteacher, Trust Chair, Trustee Directors, Members, or an employee in the Trust's central team, it should be shared with the CEO.

Where a low-level concern is raised about the CEO, it should be shared with the Trust's Chair.

### Recording a low-level concern

All low-level concerns should be recorded in writing by the appropriate person as detailed above. 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. Records should be stored in a central low-level concerns file (either electronic or hard copy). Where multiple low-level concerns have been shared regarding the same individual these should be kept in chronological order as a running record, and with a timeline alongside. These records should be kept confidential and held securely, with access afforded only to a limited number of individuals such as the DSL, Headteacher, Trust DSL and CEO. [The Trust template can be found here on GVO.](#)

### Responding to a low-level concern

The person who has received the report of the concern will review the information and determine whether the behaviour:

- is entirely consistent with the Trust's code of conduct and the law
- constitutes a low-level concern
- is serious enough to consider a referral to the LADO, or
- when considered with any other low-level concerns that have previously been raised about the same individual, should be reclassified as an allegation, and referred to the LADO/other relevant external agencies.

Where the person who has received the report is in any doubt whatsoever, they should seek advice from the LADO.

If it is decided that the low-level concern in fact amounts to behaviour which is entirely consistent with the Trust's code of conduct and the law, it will still be important for the person who has received the report of the concern, to inform the individual in question what was shared about their behaviour, and to give them an opportunity to respond to it. Their response should also be recorded. In addition, the person who has received the report of the concern, should speak to the person who shared the low-level concern – to provide them with feedback about how and why the behaviour is consistent with the Trust's code of conduct and the law.

If it is decided that the current concern is low-level, it should also be responded to in a sensitive and proportionate way – on the one hand maintaining confidence that such concerns when raised will be handled promptly and effectively whilst, on the other hand, protecting staff from any potential false allegations or misunderstandings. Any investigation of low-level concerns should be done discreetly and, on a need-to-know basis. In many cases, a low-level concern will simply require a conversation with the individual about whom the concern has been raised. Some concerns may trigger the Trust's disciplinary, grievance or whistleblowing procedures, which should be followed as appropriate. The Trust will exercise professional judgement and, if in any doubt, will seek advice from other external agencies including the LADO. In some cases, the concern may escalate to having the potential to meet the harm threshold and will continue to be dealt with as laid out in Sections 3 – 14 of this policy.

### Retention of Records

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 Trust will decide on a course of action, either through 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/Trust centre 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. Records will be retained until at least the person leaves the Trust's employment.

### References

Low-level concerns will not be referred to in references, unless they relate to issues which would ordinarily be included in a reference, for example, misconduct or consistent poor performance. However, where a low-level concern (or group of concerns) has met the threshold for referral and has found to be substantiated, it will be referred to in a reference.

## **3. CONCERNS THAT MAY MEET THE HARM (ALLEGATIONS) THRESHOLD - AS DEFINED IN 2.1**

### 3.1. WHO TO REPORT TO

All allegations against adults should be reported to the Headteacher without delay, unless the Headteacher is the subject of the allegation, in which case it should be reported to the Chair of Trustee Directors, Dianna Gwilliams: [chair@goodshepherdtrust.org.uk](mailto:chair@goodshepherdtrust.org.uk) or 01483 910210. The Headteacher/Chair of Trustee Directors will usually become the case manager.

In the absence of the Headteacher or Chair of Trustee Directors, staff or parents should contact: Duty LADO please call 0300 123 1650 (option 3) or email [LADO@surreycc.gov.uk](mailto:LADO@surreycc.gov.uk)

If the allegation is about a Trust central officer or a Trustee Director or Member, the allegation should be reported without delay to the [Chief Executive Officer](#) (CEO) unless the CEO is the subject of the allegation, in which case it should be reported to the [Chair of Trustee Directors](#). The CEO/Chair of the Trustee Directors will usually become the case manager.

In all instances, the person making the report should then inform the [Trust HR Director](#) and [Trust Designated Safeguarding Lead](#), unless either is the subject of the allegation. The person who received the allegation should commence maintaining a chronology of events. [The Trust Template Form is provided here on GVO.](#)

Before contacting the LADO, the appropriate person should conduct basic enquiries in line with local procedures to establish the facts to help them 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?

If appropriate, you may be asked to complete a LADO referral form as a method of making a written referral, within 24 hours of receiving an allegation. [Click here](#) for Hampshire form. [Click here](#) for Surrey form.

**Accordingly, all safeguarding allegations about a member of staff, including supply teachers, contractors or volunteers (including local committee members or Trustee Directors or Members) should be immediately discussed with the LADO in the first instance who will liaise, as necessary, with Children's Services and the police. This is regardless of whether the school or college is where the alleged abuse took place.**

If the LADO is unavailable for any reason, contact IChildren's Services **0300 470 9100**

### 3.2. NEXT STEPS

If the allegation meets any of the criteria as above in 2.1, the appropriate person should report to the LADO in writing within 24 hours, using the respective LADO referral form. If reporting against the fourth bullet point, the Trust Paragraph 338 checklist (Appendix 1), should also be used and appended as supporting documentation.

3.3 It is important that allegations against adults are dealt with in the shortest time possible, that is consistent with proper investigation and legally sound procedures. On that basis, indicative times are suggested as follows:

- All allegations should be investigated as a priority to avoid or eradicate 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, however the following **target timescales** will endeavour to be met.
- It is expected that 80 per cent of cases should be resolved **within one month**, 90 per cent **within three months**, and all but the most exceptional cases should be completed **within 12 months**.
- For those cases where it is clear immediately that the allegation is unsubstantiated or malicious, they should be resolved **within one week**.
- Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the school or in the case of the Headteacher/Trust central officer, the Chair of Trustee Directors/CEO, to deal with it; although if there are concerns about child protection, the employer (as previously defined) should discuss with the LADO. In such cases, if the nature of the allegation does not require formal disciplinary action, the employer 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**.

These timescales may be varied by agreement with the Trust HR Director, Police and/or LADO in specified cases where it is appropriate to do so, in the interests of natural justice. It is more important to ensure that the issues are addressed fully and fairly than to try to meet timescales that may be unrealistic in specific cases. In cases where the Police are investigating, these timescales are likely to be significantly longer and beyond the control of the Trust.

## **4. INITIAL CONSIDERATION**

4.1. Where it is identified that a child has been harmed, that there may be an immediate risk of harm to a child or if the situation is an emergency, you should contact Children's Services and as appropriate, the police immediately. Further guidance on when to call the police, can be found [here](#). **The child's welfare is paramount**. The designated safeguarding lead is responsible for ensuring that the child is not at risk and referring cases of suspected abuse to Children's Services.

4.2. In cases where the child has been injured while in the care of the school and requires medical treatment, the parent should be informed immediately.

4.3. Children's Services / police will hold a strategy discussion if the child is suffering, or likely to suffer, significant harm to which the case manager (and others as appropriate) will be invited to participate to share information about the circumstances and the context of the allegation.

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.

4.4. In cases where a police investigation is required, but neither the threshold of significant harm nor a formal allegation meeting has reached the threshold criteria, the LADO officer should discuss by telephone or by meeting with the Trust, police and other agency involved with the child, the evaluation of the circumstances prior to a decision on the way forward. This joint evaluation should consider whether matters can be taken forward in a fact-finding and possible disciplinary process in parallel with criminal proceedings, or whether the disciplinary action needs to wait for completion of the police enquiries and / or prosecution.

4.5. In any case in which Children's Services have undertaken enquiries to determine whether the child or children are in need of protection, the Headteacher (or Chair of Trustee Directors/CEO in the case of the Headteacher/central team) should take account of any relevant information obtained in the course of these enquiries when considering disciplinary action.

4.6. All allegations will be discussed with the LADO to consider the nature, content, and context of the allegation and to agree a course of action.

4.7. The case manager will establish in discussion with the LADO officer, whether the allegation is within the scope of 2.1 and has some foundation and that the individual has:

1. behaved in a way that has harmed a child, or may have harmed a child; and/or
2. possibly committed a criminal offence against or related to a child; and/or
3. behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children; and/or
4. behaved or may have behaved in a way that indicates they may not be suitable to work with children\* (see Paragraph 338 checklist in Appendix 1)

4.8. In some cases, further investigation will be needed to enable a decision as to how to proceed. The LADO will discuss with the case manager how and by whom the investigation will be undertaken. The Trust may undertake the investigation within the school, use someone from another Trust school or from within the central team (e.g. Trust DSL) to investigate or reserve the right to commission an independent investigator. 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.

4.9. In cases that do not merit joint evaluation by police or Children's Services, the LADO will discuss with the appropriate person from the Trust, the options available including, fact-finding, summary dismissal, decision not to use services in future to no further action. [Trust Documentation to support this can be found here.](#)

4.10. The LADO should continue to liaise with the Trust to monitor the progress of all cases and provide advice/ support when required or requested. The case manager should keep a chronology of all events. The Trust provide a [template chronology form on GVO](#).

4.11 The initial sharing of information and evaluation may lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern, in which case this decision and a justification for it should be recorded by both the LADO and case manager and agreement reached on what information should be put in writing to the individual concerned and by whom. The case manager should then consider with the LADO, what action should follow both in respect of the individual and those who made the initial allegation.

#### 4.12 The position of staff whose own children may be at risk

Cases have arisen where adults working in a school who have children and who are assessed as being at risk, have their own children placed on the Child Protection Register. There is no established correlation between this situation and other children being at risk. The potential risk should be discussed with Children's Services so they can offer a view on the potential risk to other children. Clearly there is an issue of credibility and the good name of a school/Trust if parents discover there is someone working in school whose own children are deemed to be at risk of abuse from the member of staff who is their parent or carer.

It is appropriate for case managers in this situation, to give careful consideration and assess the risks that such an employee might pose to other children. It may be appropriate to undertake a risk assessment and to adjust the individual's role or to consider a stay-at-home instruction or suspension (see section 7). Advice must be sought from the LADO and Trust HR Director/DSL before this is undertaken. The CEO should also be informed of any suspensions.

It will not be fair in law to take action against an employee whose children are on the Child Protection register without proper investigation of the circumstances and establishing that the individual employee has acted inappropriately.

#### 4.13 Supply Staff

Whilst the Trust is not the employer of agency staff, we will ensure that any allegations made against supply staff are dealt with properly. The Trust will inform the supply agency of any allegation that has been made.

The Trust will not decide to cease using agency staff due to safeguarding concerns, without finding out the facts and liaising with the LADO to determine a suitable outcome. The case manager will discuss with the agency whether it is appropriate for the supply agency to suspend the member of supply staff or to redeploy them to another part of the school or another school, whilst an investigation takes place.

The Trust will facilitate a supply agency undertaking an investigation, by providing access to documentation etc. as required. In some circumstances, it may be appropriate for the Trust to take the lead on an investigation. The LADO will be asked to support the decision making as to whether the Trust or supply agency would be most appropriate to lead an investigation (based upon the individual circumstances).

Agencies should be fully involved and co-operate in any enquiries from the Trust, LADO, police and/or Children's Services. Supply staff are reminded that whilst they are not employed by the Trust, they are under the supervision, direction and control of the Trust when working in any of our schools.

This policy will be provided to supply agencies that are used by the Trust, by individual schools.

### **5. COMMUNICATION WITH THE STAFF MEMBER / PARENTS**

#### 5.1 Staff

The case manager should discuss with the LADO, the nature, content and context of the allegation, and agree a course of action. The LADO may also need to consult with Children's Services and the police.

At this stage, it may not be possible to inform the accused person as to the specifics of the allegation/s as this may affect the investigation. The accused person should be advised to contact their trade union representative if they have one and be advised of the relevant employee assistance programme or [Education Support](#). They should also be given a point of contact within the organisation and the ability and means by which to request a referral to occupational health, should they feel that they require this. An

information leaflet on the LADO referral process such as the [one produced by Surrey](#), along with a copy of this policy, could also be provided.

It is extremely important that the case manager provides the LADO with as much information as possible at that time. However, when a strategy discussion is needed, or police or Children's Services need to be involved, the case manager should not inform the staff member until those agencies have been consulted and have agreed what information can be disclosed to the accused. A risk assessment should be made and suspension or 'stay at home' may be considered. See Section 7. Master Trust Documentation can be found [here](#).

In some cases, it may be necessary for the police to interview the member of staff or volunteer before the case manager approaches him or her and instigates a fact-finding investigation. This will be determined by the police. In cases involving the Police it is expected that:

- police officers will be given every assistance with their enquiries
- confidentiality about such enquiries will be maintained in the interests of the named adult
- arrangements will be made for the case manager to be kept informed of the progress of police enquiries
- The case manager will obtain advice from the Trust HR Director (who may also liaise with the Trust Designated Safeguarding Lead) and the LADO to determine what interim action may be appropriate

## 5.2 Parents

Support for the child/ren involved is paramount and should be considered and provided/commissioned by the school (with the appropriate parental permission) throughout and following the outcome of any investigation, as appropriate.

The parent/s of any child involved in a potential allegation, will be told about the allegation as soon as possible if they do not already know about it. However, when a strategy discussion is needed, or police or Children's Services need to be involved, the parents should not be informed until those agencies have been consulted and have agreed what information can be disclosed and when.

The parent/s should be kept informed about the progress and outcome of the case and only in relation to their child - no information can be shared regarding the staff member. Parents/carers should also be made aware of the requirement to maintain confidentiality about any allegations made against those working or volunteering for the Trust whilst investigations are ongoing as set out in section 141F of the Education Act 2002 (see paragraph 388 of KCSIE 2022). This includes the publication of information on social media and providing information to the media. If parents/carers wish to apply to the court to have reporting restrictions removed, they should be informed that they should seek legal advice.

## **6. NON-CO-OPERATION / RESIGNATION / END OF CONTRACT**

6.1. Where an employee leaves the Trust before the end of the process, through resignation or end of a fixed-term or temporary contract, it will still be essential for the Trust to continue to co-operate fully with the process and, where no prosecution is taking place, for the Trust to complete its own internal investigation, even without the co-operation of the individual.

It is essential that a substantiated outcome of such an investigation is shared with any potential employer as part of a reference process, in accordance with the principles of data sharing, as outlined.

If the accused person resigns or their services cease to be used and the criteria are met, it will not be appropriate to reach a settlement/compromise agreement. A settlement/compromise agreement which prevents the Trust from making a [Disclosure and Barring Service](#) (DBS) referral when the criteria are met, would likely result in a criminal offence being committed.

The Trust have a legal duty to refer to the DBS anyone who has harmed, or poses a risk of harm, to a child or vulnerable adult where:

- the harm test is satisfied in respect of that individual;
- the individual has received a caution or conviction for a relevant offence, or if there is reason to believe that the individual has committed a listed relevant offence; and
- the individual has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left

The DBS will consider whether to bar the person. Referrals should be made as soon as possible after the resignation or removal of the individual and must only be made by the Trust's DSL, or in their absence, the Trust HR department. Further guidance on DBS referrals can be found [here](#).

Where the Trust dismisses or ceases to use the services of a teacher because of safeguarding concerns, serious or gross misconduct, or might have dismissed them or ceased to use their services had they not left first, they must consider whether to refer the case to the Secretary of State via the [Teacher Regulation Agency](#) (TRA). This referral must only be made by the Trust's DSL, or in their absence, the Trust HR department. Further guidance on TRA referrals can be found [here](#). The Secretary of State may investigate the case, and if s/he finds there is a case to answer, must then decide whether to make a prohibition order in respect of the person.

Wherever possible, the accused person should be given a full opportunity to answer the allegation and make representations about it in line with the relevant policies e.g. disciplinary.

Substantiated allegations made against those in a governance role, may result in them being removed from office.

## **7. SUSPENSIONS/STAY AT HOME**

[‘Keeping Children Safe in Education’ 2022](#) gives clear guidance on the approach that should be taken when considering whether an individual against whom an allegation has been made should be suspended.

The case manager should undertake a risk assessment to determine the appropriate course of action. In some rare cases that will require the case manager to consider asking the staff member to stay at home or suspending the accused until the case is resolved. Any such instruction will be dynamically reviewed as the investigation progresses and may be lifted at any time if there is sufficient evidence determined to do so.

The case manager must consider carefully whether the circumstances warrant suspension and should seek advice from the LADO, Trust HR Director, and Chief Executive Officer/Trust DSL of the Trust before the employer (Trust) makes a decision to suspend. The risk assessment will include what alternatives to suspension have been considered and why they were rejected.

The Trust must consider carefully whether the circumstances of the case warrant a person being suspended and all options to avoid suspension should be considered. Inappropriate and unjustified suspension resulting in an individual's resignation can amount, in law, to constructive dismissal.

In cases where the school is made aware that the Secretary of State has made an interim prohibition order in respect of an individual at the school, it will be necessary to immediately suspend that person from teaching, pending the findings of the Teacher Regulation Agency's investigation.

Suspension is a neutral act and will never be an automatic response. However, it will be considered in any case where:

- there is cause to suspect a child is at risk of harm; or
- the allegation is so serious that it might be grounds for dismissal; or
- to remain working could be prejudicial to the gathering and presentation of evidence

The case manager should consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements e.g. stay at home, working at the central offices, moving the child/ren or ensure that the adult is always accompanied by another adult. In many cases, an investigation can be resolved quickly and without the need for suspension. If the LADO, police or Children's Services (as appropriate) have no objections to the member of staff continuing to work during the investigation, the case manager should take advice from the Trust HR Director/Trust DSL and explore all possible options to avoid suspension.

Use of alternative options, allows time for an informed decision regarding the suspension and possibly reduces the initial impact of the allegation. 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 unsubstantiated or maliciously intended.

Where it has been deemed appropriate to suspend the person, written confirmation should be dispatched within one working day, giving as much detail as appropriate for the reasons for the suspension. The Trust will provide appropriate support for anyone facing an allegation. 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. This may include occupational health services and the Trust employee assistance programme and/or [Education Support](#). They should be advised to contact their trade union representative, if they have one, or their named colleague for support. Whilst suspended, the person should be kept informed of both the progress of their case (where it is possible to do so) and current work-related issues. Social contact with colleagues and friends should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

Children's Services or the police cannot require the Trust to suspend a member of staff or a volunteer, although they should give appropriate weight to their advice. The power to suspend is vested in the Trust as set out in the scheme of delegation. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by the Children's Services and/or an investigation by the police, the LADO should canvass police and Children's Services for views about whether the accused member of staff needs to be suspended from contact with children to inform the Trust consideration of suspension. 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.

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. 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 a pupil at the school. You should contact the Trust's HR Director for further information and advice.

## 8. CRIMINAL PROCEEDINGS

8.1. If the police or Crown Prosecution Service decide not to press charges; decide to issue a caution; or if the person is acquitted by the courts, the Trust will request from the police and LADO all the information pertinent to disciplinary proceedings. The police should obtain consent from the individuals involved to share their statements and evidence for use in an employer disciplinary process. If deemed necessary by the Trust, a [DP5](#) or Freedom of Information request may be made.

The case manager will discuss whether any further action is appropriate and if so, how to proceed taking into account the information from police and Children's Services, and bearing in mind the different standard of proof required in disciplinary and criminal proceedings.

8.2. If the person is convicted by the courts, the employer will be informed straightaway by the police so that appropriate action can be taken.

8.3 If a police investigation into a Trust employee or volunteer is commenced, the Trust will comply with all requests for data sharing from the Police, in line with [Working Together to Safeguard Children](#).

## 9. CONFIDENTIALITY

Media attention during an investigation can add to the problems for the alleged perpetrator and may even hinder an investigation. Every effort must be made to maintain confidentiality and guard against unwanted publicity when an allegation is being investigated or considered.

The Education Act 2002 (subsequently 2011) introduced reporting restrictions preventing (prohibiting) the publication of any material that may lead to the identification of a teacher who has been accused by, or on behalf of, a pupil from the same school or college (whether that identification would identify the teacher as 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. Early contact with the Trust's CEO for advice and support for dealing with media enquiries is therefore required. All media enquiries should be handled through the [Trust central team](#) (or their representative PR agency) and not the school directly.

Regrettably, it is often the case that the media do become aware of allegations through parents or pupils. Therefore, any briefings to staff, local committee members and the Trustee Directors, must emphasise the need to avoid any direct contact with the media and to refer any such matters to the Trust central team.

Advising the member of staff or volunteer of any early indications of media coverage will be essential.

The case manager should take advice from the LADO, police, Children's Services and Trust HR Director/DSL, to agree the following:

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

## 10. RECORD KEEPING

A timed and dated chronology should be kept from the moment that an allegation is received by the person dealing with the allegation. A [proforma is provided on GVO](#). The case manager must keep secure records of any concerns or incidents relating to individual staff in an employee's confidential personnel file, unless the allegations are malicious. However, for all other allegations, it is important that the following is kept:

- 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;
- copy provided to the person concerned, where agreed by Children's Services or the police; and
- a declaration on whether the information will be referred to in any future reference.

Schools have an obligation to preserve records that 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 records should be retained for at least until the accused has reached normal pensionable age or for a period of 10 years from the date of the allegation, if that is longer.

The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS 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.

In the case of an allegation, which is proven to be malicious, the Trust/school documentation must be removed from personnel records immediately.

## 11. REFERRAL TO PROFESSIONAL BODIES

### REPORTING TO THE DBS

The Trust have a legal duty to refer to the DBS anyone that we consider has engaged in conduct that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm. This includes where:

- the allegation is substantiated and
- the person is dismissed; resigns, or otherwise ceases to provide his or her services; or
- the employer ceases to use the person's services.

The DBS will consider whether to bar the person. Referrals should be made by the Trust DSL (or Trust HR team in their absence) as soon as possible after the resignation, removal, or redeployment of the individual. Guidance on referrals can be found [here](#).

Where a teacher's employer, including an agency, dismisses or ceases to use the services of a teacher because of serious or gross misconduct, or might have dismissed them or ceased to use their services had they not left first, they must consider whether to refer the case to the Secretary of State via the [TRA](#). The Secretary of State may investigate the case, and if s/he finds there is a case to answer, must then decide whether to make a prohibition order in respect of the person.

## 12. OUTCOMES OF ALLEGATION INVESTIGATIONS AND REFERENCES

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

- Substantiated: there is sufficient evidence to prove the allegation;
- Malicious: there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive 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

A summary of outcomes form must be completed and sent to the LADO and the staff member informed of the outcome of the investigation, via a letter. See Section 10.

12.2. If a report/allegations are found to be unsubstantiated, unfounded, false or malicious, the LADO and the case manager (and where appropriate DSL) should consider whether the child and/or the person who has made the allegation is in need of help or may have been abused and if this is a cry for help. In such circumstances, a referral to children's social care may be appropriate.

12.3. When an allegation is deliberately invented, false or malicious, the Trust should ask the police whether any action might be appropriate against the person responsible, if the employee, who is accused, is in agreement to this.

12.4 All other matters should be dealt with through the associated policy e.g. disciplinary, complaints, grievance. Further advice can be sought from the Trust HR Director.

12.5 Cases in which an allegation was proven 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. Substantiated allegations should be included in references, provided that the information is factual and does not include opinions.

12.6 Where it is decided on the conclusion of a case that a person who has been suspended can return to work, Trust HR and the Headteacher/Trust CEO/Chair will advise how best to facilitate this. 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.

### **13. LEARNING LESSONS**

At the conclusion of the 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 or Trust's procedures or practice to help prevent similar events in the future. This should include issues arising from the decision to suspend the member of staff, the duration of the suspension and whether the suspension was justified. The Trust may also determine to commission their own internal or external review, as deemed appropriate.

### **14. WHISTLEBLOWING**

All staff should be made aware of the Trust's whistleblowing policy and feel confident to voice concerns about the attitude or actions of colleagues. If a member of staff believes that a reported allegation or concern is not being dealt with appropriately by their organisation, they should report the matter directly to the LADO.

Surrey Police (General Enquiries) Telephone 0845 045 45 45/101 (Emergency) Telephone 999

## Appendix 1



# Keeping Children Safe in Education Part 4

## Bullet Point 4 - Paragraph 338 Checklist

This document should be used when determining whether the actions of an employee, a member of agency staff, contractor or a volunteer (including local committee members, Trustee Directors and Members) meet the criteria set out in the **fourth bullet point of paragraph 338** of [Keeping Children Safe In Education](#) in that the individual:

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

This checklist is not intended replace suspension/formal disciplinary investigations and should be retained securely in the individual's personnel file in accordance with the detail provided within the allegations policy.

<b>Name of individual</b>	
<b>Role</b>	
<b>Allegation/concern/conviction (give brief description)</b>	
<b>Date of allegation/concern/conviction</b>	
<b>Date of your assessment</b>	
<b>Area of discussion</b>	<b>Summary of response</b>
<b>LADO Advice (date, name of contact and advice given)</b>	
<b>Initial consideration to any policy breaches (Acceptable Use, Code of Conduct, Substance</b>	

misuse, Teacher Standards etc)	
Initial evidence	
Individual's response to allegation/concern/conviction (have they been open and honest, did they come to you with the issue etc)	
What was the 'trigger/cause' of the concern/allegation/conviction (including any extenuating circumstances)	
Relevance of allegation/concern/conviction to individual and school setting  Could the above 'trigger/cause' occur in a school setting?	
Is the allegation/concern/conviction being formally investigated under disciplinary procedures	YES / NO
<b>Based on the above evidence and advice taken, do you believe the employee/agent/volunteer:</b>  Behaved or may have behaved in a way that indicates they may not be suitable to work with children?	YES / NO  Explain why/not and if applicable, follow-up action taken:

<b>Decision made by:</b>	Name	
	Position	
<b>Signature:</b>		
<b>Advised by:</b>	Name	
	Position	
<b>Review date:</b>		

Explanatory information for staff and volunteers:

The September 2020 version (and those thereafter) of [Keeping Children Safe in Education](#) changed the way that schools manage allegations against staff and volunteers. This change affects all staff, agency workers, contractors and volunteers.

Until that point, we were expected to consider allegations made against adults as a safeguarding concern only if the allegation related to how that adult acted towards children. The guidance now requires us to treat as a safeguarding concern an allegation where it is alleged that a member of staff or volunteer behaved or may have behaved in a way that indicates they may not be suitable to work with children.

This addition is to ensure schools consider circumstances where there may be a transferable risk. A transferable risk is where a member of staff or volunteer is involved in an incident outside school that did not involve children but could have an impact on the suitability to work with children. For example, a member of staff is involved in domestic violence at home. No children were involved, but we would be expected to consider what triggered these actions and could a child in school trigger the same reaction, therefore being put at risk.

All those working with children, need to be aware of this change and keep in mind that, as well as being a potential breach of [other policies], such Teachers Standards or Code of Conduct, could result in a safeguarding investigation under Part 4 of Keeping Children Safe in Education 2022.