



# Whistleblowing (including Low-Level Concerns) Policy

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## 1. Introduction

The aim of this policy is to encourage employees and others who have serious concerns about any aspect of the school to voice those concerns and feel secure in doing so.

It is important that any fraud, misconduct, or wrongdoing is reported and properly dealt with. We encourage all individuals to raise any concerns they may have about the conduct of others or the way in which we operate.

We are committed to the principles of honesty and integrity. A culture of openness and accountability is critical to ensuring these values are authentically lived by.

This policy applies to all employees, workers, agency staff, contractors, service providers, volunteers, and governors.

This policy does not form part of any employee's contract of employment, and it may be amended at any time.

## 2. Scope

If an employee's concern relates to how they have been treated this should be raised under the grievance or bullying and harassment policies.

The whistleblowing policy will not replace any existing policies or procedures. If misconduct is discovered as a result of any investigation under this policy our disciplinary policy will be used.

We encourage individuals to disclose any concerns they may have regardless of whether they are covered by this or another policy.

## 3. What is whistleblowing?

Whistleblowing means the reporting of information which relates to actual or suspected wrongdoing. This is called a "qualifying disclosure".

Qualifying disclosures are disclosures of information where the worker reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future:

- a criminal offence
- the breach of a legal obligation
- a miscarriage of justice
- a danger to the health and safety of any individual
- damage to the environment
- the deliberate attempt to conceal any of the above.

If a worker is going to make a disclosure it should be made to the employer first, or if they feel unable to use the organisations procedure the disclosure should be made to a prescribed person (e.g. Head teacher, Chair of Governors, Trustees), so that employment rights are protected.

It is not necessary for a whistle-blower to have proof of such an act for the protections of

this policy to apply.

Potential whistle-blowers are encouraged to seek support from a senior manager or their trade union representative if they are unsure whether to make a disclosure or to access support in making a disclosure, regardless of whether it is qualifying or not.

#### **4. Protections for whistle-blowers**

This policy has been written to take account of the Part IVA of the Employment Rights Act 1996 which protects workers making protected disclosures.

A qualifying disclosure made to the worker's employer is a protected disclosure. A qualifying disclosure made by a worker under this policy will also be a protected disclosure.

A whistle-blower who makes a protected disclosure has the right not to be dismissed (if they are an employee) or subjected to any other detriment, because they have made a protected disclosure.

Dismissing, or subjecting a whistle-blower to any other detriment for raising a protected disclosure will be a disciplinary offence.

We will not determine that anyone should cease to work at the school on the basis that they have made a qualifying disclosure in accordance with the law and this policy.

Whistle-blowers may seek support and advice from organisations such as the whistle blowing charity Protect (<https://protect-advice.org.uk> /020 3117 2520) or ACAS ([www.acas.org.uk](http://www.acas.org.uk)).

#### **5. Obligations for the whistle-blower**

An instruction to cover up wrongdoing is in itself a disciplinary offence. A whistle-blower who is told not to raise or pursue any concern, even by a person in authority, should not agree to remain silent.

Whistleblowing to an external agency without first using the procedure below may be considered a breach of our Code of Conduct.

It is not appropriate to whistle blow to the media except in limited circumstances and where those circumstances do not apply such whistleblowing may be considered gross misconduct.

Maliciously making a false allegation is a disciplinary offence.

#### **6. Confidentiality**

We encourage individuals to voice their concerns openly. If anyone wishes to raise concerns confidentially, we will make every effort to keep their identity secret.

The person(s) to whom the disclosure is made will consult with the whistle-blower before divulging their identity to any party, including an investigator.

We do not encourage anonymous disclosures as this may make it harder to establish the credibility of an allegation and may make investigation difficult or impossible. Anonymous concerns will be taken seriously and investigated as far as is possible under this policy.

## **7. Our commitment**

Any matter raised under this policy and procedure will be investigated thoroughly, promptly, and confidentially.

Whilst the person carrying out the investigation will aim to keep the whistle-blower informed of the progress of the investigation and likely timescales, sometimes the requirement for confidentiality will prevent full information about the investigation and any consequential disciplinary action from being disclosed.

## **8. Obligations for the Governing Board:**

An appropriate representative (Elliott Plumb or Adam Guest) will inform Hertfordshire County Council as the maintaining authority of any qualifying disclosures at the earliest opportunity.

Concerns regarding financial irregularity will be reported to the Shared Internal Audit Service (SIAS) where concerns related to child protection will be handled in keeping with the relevant policy of the school and reported to the Local Authority Designated Officer (LADO) where the threshold is met.

## **9. Whistleblowing procedure**

### **9.1. Stage 1 – Disclosure**

You should initially raise your concern with your line manager. You may do this orally or in writing. Your line manager should then inform the headteacher of the concern.

If the concern relates to your line manager or any person to whom you report (other than the headteacher) you should raise the issue with the headteacher.

If the concern relates to the headteacher, you should raise this with the named governor, (eg Chair of Governors).

### **9.2. Stage 2 – Investigation**

The headteacher will arrange an investigation into the concerns raised, unless the concern relates to the headteacher, in which case the investigation will be arranged by the named governor. This will take place as soon as is reasonably practicable.

The investigation may involve you and other individuals involved meeting with the investigator and giving a written statement.

At any investigatory meetings you are entitled to be accompanied by a recognised trade union representative or a work colleague.

### **9.3. Stage 3 – Report to Headteacher/Governors**

The investigator will report to the person who arranged the investigation before any further action is taken. That person will decide on potential outcomes including, but not limited to:

- invoking our disciplinary process, or other relevant policy
- referral to the police, Hertfordshire County Council department, government department or regulatory agency

- no further action.

On conclusion of any investigation, you will, as far as is practicable and where it is reasonable to do so, be told the outcome of the investigation and what the headteacher/named governor has done, or proposes to do, about it. If no action is to be taken, the reason for this will be explained.

#### 9.4. Stage 4 – Escalation

If, on conclusion of stages 1, 2 and 3 you believe that the appropriate action has not been taken, you should report the matter to the proper authority. The Public Interest Disclosure (Prescribed Persons) Order 2014 (as amended) sets out a number of bodies prescribed by the Secretary of State to which qualifying disclosures may be made. In order for the report to one of these bodies to be a protected disclosure, you must reasonably believe that the matter falls within the matters covered by that body. You must also reasonably believe that the information disclosed, and any allegations contained in it, are substantially true.

These bodies include:

- the Financial Conduct Authority (formerly the Financial Services Authority)
- the Health and Safety Executive
- the Environment Agency
- His Majesty’s Chief Inspector of Education Children’s Services and Skills
- the Secretary of State for Education
- the Office of Qualifications and Examinations Regulation.

A full list can be obtained from the charity, Protect or the BEIS (Department for Business, Energy and Industrial Strategy) list on the [www.gov.uk](http://www.gov.uk) website. The DBEIS list contains a description of the type of matter covered by each prescribed body. Alternatively, you may contact their professional association or trade union representative for guidance.

## 10. Data Protection

When you make a disclosure, the headteacher/named governor will process any personal data collected in accordance with our data protection policy. Data collected from the point at which the individual makes the report is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the disclosure.

## 11. Contacts

Our appointed Governor for this purpose is: Adam Guest

The independent whistleblowing charity: **Protect**

**Web address :** [Protect - Speak up stop harm - Protect - Speak up stop harm \(protect-advice.org.uk\)](http://protect-advice.org.uk)

Helpline [020 3117 2520](tel:02031172520)

E-mail: [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk)

# Low-level Concerns

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## 1. INTRODUCTION

The statutory guidance, Keeping Children Safe in Education (KCSiE) 2023 includes new guidance for schools and trusts on dealing with low-level concerns about the behaviour of staff working with children.

The purpose of this guidance is to create and embed a culture of openness, trust, and transparency in which the clear values and expected behaviour are reinforced to all staff, including supply teachers, volunteers and contractors, as set out in the staff code of conduct.

This guidance covers low-level concerns that do not meet the harm threshold. An allegation may meet the harm threshold where it is alleged that a person who works with children has:

- behaved in a way that has harmed a child, or may have harmed a child
- possibly committed a criminal offence against or related to a child
- behaved towards a child or children in a way that indicates they may pose a risk of harm to children
- behaved or may have behaved in a way that indicates they may not be suitable to work with children.

Allegations that may meet the harm threshold should be assessed accordingly and advice should be sought from the Local Authority Designated Officer (LADO) and/or HR Services.

This guidance should be used in conjunction with the School/Trust/ Settings' Code of Conduct, disciplinary and safeguarding policy, and procedures.

## 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 prescribed threshold. A low-level concern is any concern – no matter how small, even if it is just causing a sense of unease or a 'nagging doubt' - that an adult working in or on behalf of the organisation may have acted in a way that:

- is inconsistent with the staff code of conduct, including inappropriate conduct outside of work

- is a cause for concern but does not meet the threshold of harm or is not considered serious enough to refer to the LADO.

Low-level concerns are part of a spectrum of behaviour including inadvertent or thoughtless behaviour; behaviour that might be considered inappropriate depending on the circumstances; and/or behaviour which is intended to enable abuse.

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
- using inappropriate sexualised, intimidating, or offensive language.

### 3. WHY DO SCHOOLS/TRUSTS NEED TO RESPOND TO LOW-LEVEL CONCERNS?

KCSiE now states that Schools/Trusts/ Settings should have a low-level concerns policy and procedure in place. These should form part of your School's/Trust/ Settings' overall safeguarding and child protection policies and procedures. It should also form part of an existing staff code of conduct.

Having clear procedures for responding to low-level concerns is part of creating a culture of openness and trust. It helps ensure staff consistently model the School/Trust/ Setting's values and helps keep children safe. It will also protect members of staff working with children from potential false allegations or misunderstandings.

### 4. WHAT DO SCHOOLS AND TRUSTS NEED TO DO?

There should be clear processes in place for sharing and responding to any concerns about an adult's behaviour, no matter how small. A concern can still be significant even if it does not meet the threshold of harm.

The School/Trust/ Settings should ensure that their low-level concerns policy contains a procedure for sharing confidentially such concerns which is clear, easy to understand and implement. Whether all low-level concerns are shared initially with

the Designated Safeguarding Lead or with the Headteacher/Principal is a matter for the School/Trust/ Settings to determine. The DSL should inform the Headteacher/Principal of all low-level concerns in a timely fashion according to the nature of each low-level concern. The Headteacher/Principal should be the ultimate decision maker in respect of all low-level concerns, although it is recognised that depending on the nature of some low-level concerns the Headteacher/Principal may wish to consult with the DSL and take a more collaborative decision in making approach.

Where concerns or allegations relate to the Headteacher/Principal, this should be referred to the Chair of Governors, Chair of the Management Committee, or the proprietor of an independent school. Where there is a conflict, the matter should be reported directed to the Local Authority Designated Officer (LADO).

The School/Trust/ Settings should share low- level concerns about supply staff and contractors with their employers, so that any potential patterns of inappropriate behaviour can be identified.

Schools/Trusts/ Settings should ensure all adults understand:

- what constitutes appropriate and inappropriate behaviour
- what a low-level concern is
- the importance of sharing low-level concerns
- how to report any concerns
- the process for recording, reviewing and responding to concerns.

## 5. MONITORING AND REVIEW

School/Trusts/ Settings should retain all records of low-level concerns, including behaviour which is not entirely consistent with the staff code of conduct. Records should include:

- A clear and comprehensive summary of the concern.
- Details of how the concern was followed up and resolved.
- A note of any action taken, decisions reached, and the outcome.

- The name of the individual sharing concerns – if the individual wishes to remain anonymous, this should be respected as far as reasonably possible.

Where multiple low-level concerns, regarding the same individual have been shared, these should be kept in chronological order with a timeline of events.

These records should be held securely and confidentially with limited access such as the Headteacher, Designated Safeguarding Lead (DSL) and line manager. The School/Trust/ Settings can decide where these records are kept, but they must comply with the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR).

The Headteacher or DSL should review low-level concerns records periodically to ensure that such concerns are being dealt with promptly and appropriately, and that any potential patterns of concerning, problematic or inappropriate behaviour are identified. A record of these reviews should be made.

Upon review it may be found that:

- Behaviour is inconsistent with the staff code of conduct but there is no pattern of behaviour and does not meet the threshold of harm or is not considered serious enough to refer to the LADO.

Low-level concerns should be recorded and periodically reviewed.

- Whilst not sufficiently a cause for concern and may not meet the threshold of harm or considered serious enough to refer to the LADO; nonetheless merits consulting with and seeking advice.

Advice should be sought from the LADO or HR Services.

- When considered with any other low-level concerns that have previously been shared about the same individual, could now meet the threshold of an allegation, or in and of itself meets the threshold of an allegation.

This should be referred to the LADO/other relevant external agencies, and in accordance with the School/Trust/ Settings Safeguarding Policy and Part 4 of KCSIE.

## 6. STAFF REQUESTS OF ANONYMITY

If the staff member who raises the concern wishes to remain anonymous, the School/Trust/ Settings should respect the person's request as far as possible. However, there may be circumstances where the staff member will need to be named and for this reason, anonymity should never be promised to members of staff who share low-level concerns.

Where possible, staff should be encouraged to consent to be named, as this will help to create a culture of openness and transparency.

## 7. DATA PROTECTION

The Data Protection Act 2018 (DPA 2018) is not a barrier to a low-level concerns procedure but an important factor to consider. Issues may arise when Schools/Trusts are providing employment references, setting retention periods and dealing with subject access requests. DPA 2018 includes a specific provision which permits organisations to process even the most sensitive personal data where it is necessary for the purposes of protecting children from harm. Low-level concerns recording must meet the relevant threshold of necessity.

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. However, where a low-level concern (or group of concerns) meets the harm threshold for referral to the LADO and found to be substantiated, then it should be referred to in a reference.

School/Trust/ Setting leaders should be mindful that staff they are making records about may have rights to access them through a subject access request (SAR). In consideration of this, Schools/Trusts/ Settings should be mindful when recording low-level concerns, particularly where the issue relates to a specific child. If a child may be identifiable from the record, then it is likely to be inappropriate to share this record following a subject access request. Please contact your Data Protection Officer (DPO) for further advice.



## 9. APPENDIX 2 – LOW-LEVEL CONCERN FORM

It may be possible that a member of staff, supply staff, volunteer or contractor, acts in a way that does not cause risk to children but is inappropriate. A member of staff who has a concern about another member of staff should use this low-level concern form to share any concern – no matter how small, and even if no more than causing a sense of unease or a ‘nagging doubt’ – that an adult may have acted in a way that:

- is inconsistent with the staff code of conduct, including inappropriate conduct outside of work
- is a cause for concern but does not meet the threshold of harm or is not considered serious enough to refer to the LADO.

You should provide a concise record – including brief context in which the low-level concern arose, and details which are chronological, and as precise and accurate as possible.

### **Details of concern**

**Name of staff member:**

**Role:**

**Signed:**

**Date and time:**

**Action Taken:** (Specify)

**Signed:**

**Date and time:**

Please note that low-level concerns will be treated in confidence as far as possible, but Kingshill Infant School may in certain circumstances be subject to legal reporting requirements or other legal obligations to share information with appropriate persons, including legal claims and formal investigations.