

KING EDWARD'S SCHOOL POLICY DOCUMENT

Title: Low-level Staff Concerns Policy

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LOW-LEVEL CONCERNS POLICY

Introduction

King Edward's School ("the School") understands the importance of a positive culture where concerns can be identified and spoken about openly and acknowledges that this is a key element of a strong safeguarding system. This Low-Level Concerns Policy seeks to ensure that all staff* who work with children behave appropriately and to enable the early identification and prompt and appropriate management of concerns.

As part of its whole school approach to safeguarding, the School will ensure that it promotes 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 the behaviour of adults towards children (including allegations that do not meet the harm 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 the School to identify concerning, problematic or inappropriate behaviour at an early stage; 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 School. The Low-Level Concerns Policy enables all staff to share any concerns – **no matter how small** – about their own or another member of staff's behaviour with the DSL and/or Headmaster. This policy offers guidance for staff if they feel they need to share something that is worrying them about another member of staff who works at King Edward's School, but that may not necessarily be regarded as a serious allegation or safeguarding matter. It may just be that a member of staff needs some support and training to prevent them being in a position that breaches the Staff Code of Conduct. This policy should be read in conjunction with the School's Whistleblowing policy.

This merely formalises what we already do in the School, where we recognise our duty to support staff to ensure best practice.

The policy offers guidance as to what a low-level concern is; with whom and how to pass on that concern; and information for staff should a low-level concern be raised about them.

*This policy applies to all **staff**; 'staff' should be interpreted very widely to mean anyone associated with King Edward's School, whether working in or on behalf of the School, engaged as a paid employee (including supply teacher), worker or contractor, or unpaid member of staff or volunteer. It also includes anyone who is part of the Governing Body.

Aims

This guidance is designed to reinforce the robust and holistic safeguarding culture at King Edward's School. In practice, this means ensuring that all those who work with children behave appropriately, and that early identification and prompt and appropriate management of concerns about adults are enacted. This guidance should be read in conjunction with the Safeguarding and Child Protection Policy (for allegations that meet Local Authority Designated Officer referral – LADO remains a term used by the Bath And North East Somerset Community Safety and Safeguarding Partnership) which includes the Staff Code of Conduct.

Our aim is to create and embed a culture within our community in which all concerns about adults (including where threshold of allegations is not met) are shared responsibly and with the right person and recorded and dealt with appropriately. We aim to promote an open, trusting and transparent culture which enables and encourages everyone to share concerns about any adult working with our students. In turn this should enable us to identify concerning, problematic or inappropriate behaviour of staff early, and minimise the risk of abuse.

We aim to ensure that adults working in or on behalf of our school are clear of the professional boundaries and act within them in accordance with the ethos and values of our School. This should ensure that staff avoid the slippage of boundaries between staff and student to safeguard both the student and member of staff.

In order to achieve this robust holistic safeguarding culture School aims to:

- ensure that staff are clear about, and confident to distinguish, expected and appropriate behaviour from concerning, problematic or inappropriate behaviour – in themselves and others, and the delineation of professional boundaries and reporting lines;
- empower staff to share any low-level concerns with the Designated Safeguarding Leads (DSLs), and to help all staff to interpret the sharing of such concerns as a neutral act;
- address unprofessional behaviour and help the individual to correct such behaviour at an early stage;
- identify concerning, problematic or inappropriate behaviour - including any patterns - that may need to be consulted upon with (on a no-names basis if appropriate), or referred to, the LADO;
- provide for responsive, sensitive and proportionate handling of such concerns when they are raised;
- help identify any weaknesses in the School's safeguarding system.

Low-level concerns regarding staff behaviour

Definitions:

Allegation that may meet the harm threshold The term 'allegation' means it is alleged that an adult who works with children 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 they 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.

In terms of managing cases of allegations that may meet the harm threshold, these might 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. **These must be reported direct to the Headmaster as a matter of urgency, or if the concern is about the Headmaster, then to the Chair of Governors.**

Concern (including an allegation) that does not meet the harm threshold – i.e. a low-level concern.

The term 'low-level concern' does not mean that it is insignificant, it means that an adult's behaviour towards a child does not meet the harm threshold set out above. 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 may have acted in a way that:

- is inconsistent with the School's Staff Code of Conduct, including inappropriate conduct outside of work;
- does not meet the allegation threshold or is otherwise not serious enough to consider a referral to the LADO – but may merit consulting with and seeking advice from the LADO, and on a no-names basis if necessary.

The DfE recognises such behaviours as:

- Being over-friendly with children
- Having favourites
- Taking photographs of children on their personal device
- 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
- A breach of trust or boundaries

This guidance distinguishes between behaviour of low-level concern and that which may meet the harms threshold.

Staff do not need to be able to determine in each case whether their concern is a low-level concern, or if it is in fact serious enough to consider a referral to the LADO, or meets the threshold of an allegation. Once staff share what they believe to be a low-level concern, that determination should be made by the DSL (see Appendix 1).

Sharing a low-level concern

- All low-level concerns should be shared with the DSL (or a Deputy DSL in the DSL's absence).
- If the low-level concern relates to the DSL then the report should be made to the Headmaster
- If any low-level concern relates to the behaviour of the Headmaster, it should be referred to the Chair of Governors
- If there is a conflict of interest in sharing a low-level concern with the DSL or the Headmaster, the low-level concern should be shared with the Chair of Governors unless there is conflict of interest in doing so, in which case it should be reported directly to the LADO
- The sharing of low-level concerns should be made as soon as reasonably possible, ideally within 24 hours of becoming aware of it, particularly if this relates to a specific incident.
- However, it is important to note that it is never too late to share a low-level concern

Although it is important that staff feel comfortable with, and are clear about, the concept of low-level concerns, and know what to do if they have such a concern, they do not need to be able to determine in each case whether their concern is a low-level concern, or if it is not serious enough to consider a referral to the LADO, or whether it meets the threshold of an allegation. Once staff

share what they believe to be a low-level concern, that determination should be made by the Headmaster after consultation with the DSL.

Appendix 1 further illustrates the distinction between an allegation that may meet the harm threshold, and a concern (including an allegation) that does not meet the harm threshold – i.e., a low-level concern.

Can the sharing of a low-level concern be done anonymously?

Staff are encouraged to consent to be named when sharing low-level concerns, as this will help to create a culture of openness and transparency. If the staff member who raises the concern does not wish to be named, then we should respect that person's wishes as far as possible.

However, there may be circumstances where the staff member will need to be named (for example, where it is necessary in order to carry out a fair disciplinary investigation) and, for this reason, anonymity will not be promised to members of staff who share low-level concerns.

Self-reporting:

Occasionally a member of staff may find themselves in a situation which could be misinterpreted or might appear compromising to others. Equally, a member of staff may, for whatever reason, have behaved in a manner which, on reflection, they consider falls below the standard set out in the School's Staff Code of Conduct.

The School's Staff Code of Conduct asks all staff to share when they have found themselves in a situation that breaches or could be perceived as breaching the Staff Code of Conduct. This is also emphasised at the new staff safeguarding induction meeting with the DSL.

Self-reporting in these circumstances can be positive for a number of reasons: it is self-protective, in that it enables a potentially difficult issue to be addressed at the earliest opportunity; it demonstrates awareness of the expected behavioural standards and self-awareness as to the individual's own actions or how they could be perceived; and, crucially, it is an important means of maintaining a culture where everyone aspires to the highest standards of conduct and behaviour.

How to report:

All staff are encouraged to speak directly to the DSL (who will produce a written record), or to send the DSL a written account – this can be done via school email.

Reporting a low-level concern about a member of staff:

The Staff Code of Conduct states that we all have a duty to safeguard our students and that they should report any behaviours that breach or are seen to breach the Staff Code of Conduct. This is also emphasised at the new staff safeguarding induction meeting with the DSL. A reminder about this is given at the start of each academic year in the staff briefing and a reminder of how to communicate concerns via email to the DSL, and that this is handled with discretion.

Uncertainty over reporting

All staff are encouraged to run concerns past the DSL – this will allow a professional judgement as to what information is necessary to record for safeguarding purposes to be made.

How the School will respond to a low-level concern

Once the DSL has received the low-level concern, they will - not necessarily in the below order but in an appropriate sequence according to the nature and detail of the particular concern shared with them:

- Liaise with the Headmaster and outline the reasons for investigating the concern
- Speak to the person who raised the low-level concern (unless it has been raised anonymously).
- Speak to any potential witnesses (unless advised not to do so by the LADO/other relevant external agencies, where they have been contacted).
- Speak to the individual about whom the low-level concern has been raised (unless advised not to do so by the LADO/other relevant external agencies, where they have been contacted).
- If they are in any doubt, seek advice from the LADO – on a no-names basis if necessary.

Review the information and determine whether the behaviour in question:

1. is entirely consistent with the School's Staff Code of Conduct and the law;
 2. constitutes a low-level concern;
 3. is not serious enough to consider a referral to the LADO but may merit consulting with and seeking advice from the LADO, and on a no-names basis if necessary;
 4. when considered with any other low-level concerns previously raised about the same person, could now meet the threshold of an allegation, and should be referred to the LADO/other relevant external agencies, and in accordance with the School's Safeguarding and Child Protection Policy, Part 4 of KCSIE 2021, and the relevant procedures and practice guidance stipulated by the School's Local Safeguarding Partnership; or
 5. in and of itself meets the threshold of an allegation and should be referred to the LADO/other relevant external agencies, and in accordance with the School's Safeguarding and Child Protection Policy, Part 4 of KCSIE 2021, and the relevant procedures and practice guidance stipulated by the School's Local Safeguarding Partnership
- Ensure that appropriate and detailed records are kept of all internal and external conversations regarding the concern, their determination, the rationale for their decision and any actions taken, and retain records in accordance with the Low-Level Concerns Policy.
 - Consider whether the concern also potentially raises misconduct or capability issues - taking advice from HR / the Bursar on a named or no-names basis where necessary and, if so, refer the matter to HR / the Bursar.

What action will be taken if it is determined that the behaviour is entirely consistent with the School's Staff Code of Conduct and the law?

- The DSL or the Headmaster will update the individual in question and inform them of any action taken (as above).

- The DSL or the Headmaster will 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 School's Staff Code of Conduct and the law.

What action will be taken if it is determined that the behaviour constitutes a low-level concern?

- The DSL or the Headmaster will respond 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 will be done discreetly and on a need-to-know basis.
- Most low-level concerns by their very nature are likely to be minor. Some will not give rise to any ongoing concern and, accordingly, will not require any further action. Others may be most appropriately dealt with by means of management guidance and/or training. In many cases, a low-level concern will simply require a conversation with the individual about whom the concern has been raised.

Any such conversation with individuals in these circumstances will include being clear with them as to why their behaviour is concerning, problematic or inappropriate, what change is required in their behaviour, enquiring what, if any, support they might need in order to achieve and maintain that and being clear about the consequences if they fail to reach the required standard or repeat the behaviour in question. Ongoing and transparent monitoring of the individual's behaviour may be appropriate. An action plan or risk assessment which is agreed with the individual, and regularly reviewed with them, may also be appropriate.

Some low-level concerns may also raise issues of misconduct or poor performance. The DSL will also consider whether this is the case - by referring to the School's disciplinary and/or capability procedure and taking advice from the Headmaster and the Bursar on a named or no-names basis where necessary.

If the DSL considers that the School's disciplinary or capability procedure may be triggered, they will refer the matter to the Headmaster and the Bursar. If advised that the School's disciplinary or capability procedure is triggered, the individual will have a full opportunity to respond to any factual allegations which form the basis of capability concerns or a disciplinary case against them.

Staff should be aware that when they share what they believe to be a low-level concern, the DSL will speak to the adult who is the subject of that concern (unless advised not to do so by the LADO/other relevant external agencies, where they have been contacted) - no matter how 'low' level the concern may be perceived to be, to gain the subject's account - and to make appropriate records, which may be referenced in any subsequent disciplinary proceedings.

How the School responds to a low-level concern may be different depending on the employment status of the individual who is the subject of the concern - i.e. whether they are an employee or worker to whom the School's disciplinary and/or capability procedure would apply; or a contractor, Governor, or volunteer. The School's response will be tailored accordingly.

Other low-level concerns that have previously been shared about the same individual will also be considered and, therefore, there might now be cause to consider the threshold of an allegation to have been met. In this instance, the case will be referred to the LADO/other relevant external agencies, and in accordance with the School's Safeguarding and Child

Protection policy, Part 4 of KCSIE 2021 and the relevant procedures and practice guidance stipulated by the School's Local Safeguarding Partnership.

Where is this information stored?

The School will retain all records of low-level concerns (including those which are subsequently deemed by the Headmaster to relate to behaviour which is entirely consistent with the School's Staff Code of Conduct) and these are kept on the staff file with HR and on a Low-Level Concerns log with the DSL.

Where multiple low-level concerns have been shared regarding the same individual these will be kept in chronological order as a running record, and with a timeline alongside. These records will be kept confidential and held securely with access afforded only to a limited number of individuals such as the Headmaster, DSL, Chair of Governors, the Bursar and the HR Manager.

Review of concerns

The Headmaster and/or the DSL will review the central low-level concerns log periodically to ensure that all 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 will be made.

Where a pattern of behaviour is identified in respect of a specific individual, the Headmaster and/or the DSL will also consider whether any wider cultural issues are at play that may have enabled the behaviour and/or whether the School should arrange for additional training or a review of any of its policies to reduce the risk of it happening again.

The Headmaster and/or the DSL will regularly inform the Governing Body about the implementation of the Low-Level Concerns Policy and any evidence of its effectiveness, e.g. by including reference to it in any safeguarding reports and providing any relevant data.

The Designated Safeguarding Lead Governor will, on behalf of the Governing Board, also review an anonymised sample of low-level concerns at regular intervals, in order to ensure that these concerns have been responded to promptly and appropriately.

Data Protection and Confidentiality

The School will always respect the personal data of staff (and others, where they may be identifiable) in implementing the Low-Level Concerns Policy and in keeping records of low-level concerns secure.

The Data Protection Act 2018 includes a specific provision which permits organisations to process even the most sensitive personal data where necessary for the purposes of protecting children from harm. Although sharing of low-level concerns will not always involve legally sensitive categories of data, the safeguarding purpose is the same as that under the School's Safeguarding and Child Protection Policy.

A proportionate approach must be taken by all when considering what personal data is in fact necessary to share and record by way of low-level concern(s) in each case in order to support

the safeguarding purpose and to ensure the information is accurate, fair and as far as possible recorded in neutral terms.

If a member of staff who raises a low-level concern does not wish to be named, then the School will respect their wishes as far as possible. However, staff should be aware that in certain circumstances this anonymity may need to be waived.

All staff are entitled, under data protection law, to ask to see the content of any low-level concern(s) retained by the School under the Low-Level Concerns Policy as it relates to them personally and to make any reasonable objection as to the fairness or accuracy of that content.

The School will process such requests within the period prescribed by law, subject always to any necessary protection of the rights of third parties and unless any other relevant exemptions apply (including if complying with the request would be likely to prejudice the safeguarding purpose of the Low-Level Concerns Policy). Data controllers will always be able to prefer children's privacy rights on balance if the circumstances justify it, notably should the record of information relate to a specific child who may be named or identifiable by context. Therefore, there may be some instances where a child's privacy rights mean a member of staff may not have access to the requested information.

Employment law (in terms of process and decision-making) and data protection law (with its principles of transparency, fairness, accountability and accuracy) support the idea that staff should understand the information held about them and, if appropriate, be able to correct or feed into it. Hence the importance of staff self-reporting and co-operating with this holistic safeguarding culture.

If the content of a low-level concern is disputed, it may not be appropriate for the School to delete or alter the original record, but a note may be recorded alongside reflecting the staff member's alternative account or objection(s).

The School has undertaken a Data Protection Impact Assessment ("DPIA") in relation to the processing of low-level concerns, subject to ongoing review and any necessary updates from time to time. A copy of this DPIA may be requested from the member of staff with data protection responsibility at King Edward's.

All personal data processed in connection with the Low-Level Concerns Policy will be processed in accordance with the School's Privacy Notices and its Data Protection Policy.

Retention of low-level concerns

In order to identify potential patterns forming it is important to maintain securely all records of low-level concerns for as long as the member of staff works at the school. When a staff member leaves and/or takes up new employment, that creates a natural point at which the content of the file may be reviewed to ensure it still has value (either as a safeguarding measure or because of its possible relevance to future claims) and is therefore necessary to keep. Any record of low-level concerns that may be kept about such person is subject to specific review in terms of:

- (a) whether some or all of the information contained within any record may have any reasonably likely value in terms of any potential historic employment or abuse claim so as to justify keeping it, in line with normal safeguarding records practice;
- (b) if, on balance, any record is not considered to have any reasonably likely value, still less actionable concern, and ought to be deleted accordingly.

Sharing of Records

Only the DSL, Headmaster, Bursar and HR Manager will have access to this information. If there has not been any referral to the LADO, then there is no reason to share this information with any prospective employers. Any allegations that were proven to be false, malicious or unsubstantiated would not be included in employer references.

This policy should be read in conjunction with:

- Staff Code of Conduct
- Safeguarding & Child Protection Policy
- KCSIE 2 Part four: Safeguarding concerns or allegations made about staff, including supply teachers, volunteers and contractors

Monitoring and Review

The Low-Level Concerns Policy will be monitored to ensure that it is being effectively implemented in practice and will be reviewed annually by the DSL and in response to any relevant legislative, statutory or regulatory changes and/or changes in relevant guidance and/or safeguarding best practice.

Appendix 1

Allegation

Behaviour which indicates that an adult who works with children 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 they 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.

Low-Level Concern

Does not mean that it is insignificant, it means that the adult's behaviour towards a child does not meet the threshold set out above. 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 may have acted in a way that:

- is inconsistent with the School's Staff Code of Conduct, including inappropriate conduct outside of work; and
- does not meet the allegation threshold or is otherwise not serious enough to consider a referral to the LADO – but may merit consulting with and seeking advice from the LADO, and on a no-names basis if necessary.

Appropriate Conduct

Behaviour which is entirely consistent with the School's Staff Code of Conduct, and the law.

(Source: Farrer & Co, 2020)