

# Low Level Concerns Policy



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# LOW-LEVEL CONCERNS POLICY

## POLICY SUMMARY:

This offers guidance for staff if they feel they need to share something that is worrying them about another member of staff who works at Moorbridge Alternative Education Partnership School - MAEPS, but that may not necessarily be regarded as a serious allegation or safeguarding matter. It may just be something that sits slightly uncomfortably with them about a member of staff, or something that you feel that member of staff needs some support and training in order to prevent them being in a position that breaches our staff code of conduct.

This merely formalises what we already do in the School, where we encourage an environment of transparency and openness, and 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.

## THE PURPOSE OF THE POLICY:

This guidance is designed to reinforce the robust and holistic safeguarding culture at MAEPS. 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 Allegations Against Staff Policy (for allegations that meet LADO referral) and 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 should enable us to identify concerning, problematic or inappropriate behaviour of staff early, and minimize 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, staff at MAEPS should:

- 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 Lead (DSL), 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; and
- help identify any weaknesses in the safeguarding system.

## LOW-LEVEL CONCERNS REGARDING STAFF BEHAVIOUR:

### Definitions:

'staff' should be interpreted very widely to mean anyone associated with the MAEPS – i.e. whether working for or with the MAEPS, engaged as a paid employee, worker or self-employed contractor, or unpaid member of staff or volunteer. It also includes anyone who is part of the Management Group.

This guidance is in reference to behaviour of a member of staff that is below the threshold for a referral to the LADO and is considered a low-level concern. KCSIE 2022 states that the term "low-level concern" (sometimes referred to a *neutral notifications*) does not mean that it is insignificant:

*A **low-level concern [or neutral notification]** is any concern – no matter how small, and even if no more than causing a sense of unease or a “nagging doubt” – than an adult working in or on behalf of the school or college may have acted in a way that is inconsistent with the staff code of conduct, including inappropriate conduct outside of work, and does not meet the allegations threshold or is otherwise not considered serious enough to consider a referral to the LADO (KCSIE 2022)*

The DfE recognise 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 A).

#### **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;
- 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.

#### **Low-Level Concern**

Any concern – no matter how small, even if no more than a ‘nagging doubt’ – that an adult may have acted in a manner which:

- is not consistent with an organisation’s Code of Conduct, and/or
- relates to their conduct outside of work which, even if not linked to a particular act or omission, has caused a sense of unease about that adult’s suitability to work with children.

#### **Appropriate Conduct**

Behaviour which is entirely consistent with the organisation’s Code of Conduct, and the law.

(Source: Farrer & Co, 2020)

#### **HOW CAN SOMEONE SHARE A LOW-LEVEL CONCERN AT MAEPS?**

- All low-level concerns should be shared with the DSL either in person, completing the online / hard copy report form. (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 Headteacher
- 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 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 Staff Code of Conduct.

The 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 the online form, for example, or by completing a *Low-Level Concerns Form* (Appendix B) to log the incident or situation.

#### 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 online forms or discussion with the DSL, and that this is handled with discretion.

#### What if I'm not sure if classes as something worthy of reporting?

You should still run this past the DSL and allow them to make the professional judgement as to what information is necessary to record for safeguarding purposes.

#### What happens next?

The name of the individual sharing the low-level concern, and their role, should be stated, as should the name of the individual about whom the concern is being raised, and their role within MAEPS at the time the concern is raised. If the latter individual has an opposing factual view of the incident, this should be fairly recorded alongside the concern. The record should include brief context in which the low-level concern arose, and concise details (which are chronological and as precise and accurate as possible) of any such concern and relevant incident(s). The record should be signed, timed and dated.

#### HOW SHOULD A LOW-LEVEL CONCERN BE RESPONDED TO BY THE SAFEGUARDING LEAD?

<p><b>1a. Concern shared with:</b> Headteacher (HT) Designated Safeguarding Lead (DSL) If the concern is received by another staff member, they should immediately inform HT or DSL</p>	<p><b>1b. If the concern is about the HT,</b> information should be directed to either:</p> <ul style="list-style-type: none"> <li>➤ Chair of Governors / Trustees / HR Lead</li> <li>➤ Local Authority Designated Officer (LADO)</li> <li>➤ NSPCC Whistleblowing helpline</li> </ul>
<p><b>2. HT decision</b> (within 24 hours where possible):</p> <ol style="list-style-type: none"> <li>a. Contact LADO (if harm threshold met)</li> <li>b. No action</li> <li>c. Proceed with school action</li> </ol>	<p><b>6a. Internal management</b> HT determines any additional actions: e.g. Revise Code of conduct / policy / provide training</p>
<p><b>3. School Action</b> The HT defines areas of investigation / interviewees and starts to investigate concern (or appoints a senior leader). This will include:</p> <ul style="list-style-type: none"> <li>• Interviewing and take statements from all parties concerned: person reporting concern, child(ren), other adult(s) including potential witnesses and parents.</li> <li>• Check corroborative evidence.</li> </ul>	<p><b>6b. Internal management</b> HT relays management strategy to individual being investigated. (HT can refer to previous concerns and determine if new information warrants progression to disciplinary/capability):</p> <ol style="list-style-type: none"> <li>a. Concerns not substantiated – no further action</li> <li>b. Share concerns and changes required (warning / training)</li> <li>c. If issues of poor performance or misconduct evident, HT may refer to disciplinary /capability procedure</li> </ol>

<p>Written details (report) will be presented to HT. These will include:</p> <ul style="list-style-type: none"> <li>• Times/dates/locations/potential witnesses</li> <li>• Discussion about concerns</li> <li>• Evidence</li> <li>• Decisions made and reasons</li> </ul>	<p>d. Offer support (a, b and c) A record of discussion is made (letter of management guidance/record of discussion). Employee receives a signed copy and copy on personal file.</p>
<p><b>4. HT reviews report</b></p>	<p><b>7. HT (or appointed senior leader) feed back</b> Designated person speaks with all other parties to inform of conclusion of process and share outcome. Support offered for parties involved.</p>
<p><b>5. HT determines outcome:</b></p> <ul style="list-style-type: none"> <li>• Progress to enhance level as evidence indicates it meets harm threshold and HT contacts LADO</li> <li>• Consult with LADO for advice (not serious enough for referral)</li> <li>• Manage internally</li> </ul>	<p><b>8. HT monitors as required.</b></p> <p><b>It is important for HT to record all internal and external conversations, decisions, rationale, actions and recommendations. (see Appendix 2)</b></p>

#### CAN THE SHARING OF A LOW-LEVEL CONCERN BE DONE ANONYMOUSLY?

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 should never be promised to members of staff who share low-level concerns. Where possible, we would try to encourage staff to consent to be named, as this will help to create a culture of openness and transparency.

#### WHERE IS THIS INFORMATION STORED?

Reports that meet the low-level concerns criteria are shared by the DSL with the Head teacher are kept on the staff CPOMS Safe file with HR and on a Low-Level Concerns log with the DSL.

#### CAN A MEMBER OF STAFF ACCESS RECORDS OF LOW-LEVEL CONCERNS ABOUT THEM?

The nature of this policy is that we encourage buy-in and cooperation from staff in order to establish and maintain a safeguarding culture of openness, accountability and transparency.

Contrary to common belief, there is no stand-alone 'safeguarding' exemption that trumps the subject access right. However, 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 that 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.

#### CAN A MEMBER OF STAFF CHALLENGE THE RECORDED CONCERNS ABOUT THEM?

Yes. Where there is no privacy issue for a child, then a member of staff should feel they can cooperate with what has been observed and feel they can feed into the report, making corrections should they feel that it is warranted.

#### HOW LONG WILL THE RECORDS OF LOW-LEVEL CONCERNS ABOUT A MEMBER OF STAFF BE RETAINED?

KCSIE does not prescribe any timeframe here. In order to identify potential patterns forming it is important to maintain all records of low-level concerns for as long as the member of staff works at the school.

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; or

- 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.

(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.

#### **IN WHAT CIRCUMSTANCES MAY THESE RECORDS BE USED AND WITH WHOM MAY THE RECORDS BE SHARED?**

Only the DSL, Headteacher and Head of HR 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

Allegations Against Staff Policy  
Part Four KCSIE 2022

#### **APPENDIX A:**

#### **When an allegation should be referred to the LADO:**

##### **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;
- 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.

##### **Low-Level Concern**

Any concern – no matter how small, even if no more than a ‘nagging doubt’ – that an adult may have acted in a manner which:

- is not consistent with an organisation’s Code of Conduct, and/or
- relates to their conduct outside of work which, even if not linked to a particular act or omission, has caused a sense of unease about that adult’s suitability to work with children.

##### **Appropriate Conduct**

Behaviour which is entirely consistent with the organisation’s Code of Conduct, and the law.

## APPENDIX B:

Please use this form to share any concern – no matter how small, and even if no more than a “nagging doubt” – that an adult may have acted in a manner which:

- is not consistent with the MAEPS Staff Code of Conduct, and/or
- relates to their conduct outside of work which, even if not link to a particular act or omission, has caused a sense of unease about that adult’s suitability to work with children.

You should provide a concise record – including a brief context in which the low-level concern arose, and details which are chronological, and as precise and accurate as possible – of any such concern and relevant incident(s) (and please use a separate sheet if necessary). The record should be signed (if not anonymous), timed and dated.