Low Level Concern Policy

Date of Policy: January 2023

Review Date: January 2024

Review Period: Yearly

Signed by: Chair of Governors Date

Background

The purpose of the policy is to help create a culture in which the clear values and expected behaviours which are set out in the Code of Conduct are adhered to and regularly monitored and reinforced by all adults working with children; where these adults can be confident about sharing low level concerns, and Brooklands can respond to any perceived breaches of the rules which should help to create a safer and more open culture.

This policy will provide additional guidance and support as well as highlighting the importance of sharing low-level concerns. This policy works within the range of safeguarding policies in school and adheres to the following statutory Guidance and Legislation:

Children's Act 1989 & 2004
Education Act 2002
Data Protection 2018
Keeping Children Safe in Education 2022
Working Together to Safeguard Children 2018 (updated 2020)

Linked policies:

Safeguarding Policy
Allegations of Abuse Against Staff Policy Staff code of Conduct
Disciplinary Policy Whistle Blowing
Health and Safety Behaviour Policy
Positive Handling Policy

Overview

Brooklands School aims to create a culture in which all concerns about adults (including where the threshold for an allegation is not met) are shared responsibly, dealt with appropriately and recorded effectively.

By having an open and transparent culture; we are able to identify concerning, problematic or inappropriate behaviour early; minimise the risk of abuse; and ensure that all staff/supply staff/ volunteers are clear about professional boundaries and act within them, in accordance with the ethos of our school. This will also help safeguard against malicious allegations.

We recognise the importance of addressing, recording and reporting all safeguarding concerns, regardless of their apparent severity. We understand that, while a concern may be perceived as low-level, it could escalate over time to become a significant safeguarding issue.

All of our staff are expected to adhere to high standards of professional conduct and recognise there may be some cross over with conduct in their personal life. We are fully committed to responding to any concerns that may arise to ensure the safety of our pupils is prioritised and the risks of any potential harm is reduced

Differentiation between an Allegation and A Low-Level Concern

Behaviours can exist on a wide spectrum – from the unintentional or thoughtless, through to that which is ultimately intended to enable abuse.

Concerns should not be limited to Safeguarding but could relate to behaviour which does not meet the code of conduct and professional standards expected from any individual working within this school.

Low-level concerns are differentiated from concerns that can cause harm. The harms threshold is the point at which a concern is no longer low-level and constitutes a threat of harm to a child. This threshold is defined as accusations that an adult 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.

An allegation can also relate to an adult's behaviour outside of work, and their relationships with others, if they have behaved in a way in their personal life that raises safeguarding concerns. These concerns do not have to directly relate to a child but could, for example, include;

- an arrest for the possession of a weapon
- drug related incident
- have, as a parent or carer, become subject to child protection procedures;

N.B: There is a transferrable risk with behaviours in the workplace, at home or in the community.

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 above. Brooklands School understands that many serious safeguarding concerns such as child sexual abuse, can often begin with low-level concerns, e.g. being overly friendly with a child. We determine a low-level concern is any concern where an adult working in or on behalf of the school or college may have acted in a way that:

- is not consistent with our 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 and
- does not meet the allegations threshold or is otherwise not considered serious enough to consider a referral to the LADO.

N.B. A concern could be no more than causing a sense of unease, 'nagging doubt' or gut feeling.

Culture of safety

Appropriate and inappropriate behaviour

Brooklands School will promote a culture in which safeguarding pupils is the uppermost priority, beyond any perceived professional loyalties to colleagues, ensuring that staff are actively encouraged to report concerns, regardless of their relationship with the staff member.

We will ensure that all staff are aware of the importance of recognising concerns before they escalate from low-level to serious, wherever possible.

We ensure all of our 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. It is not, however, the responsibility of staff 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 will be made by the Headteacher (unless it is about the HT and then it will go to the Chair of Governors). We may decide at this point to seek advice from the Local Authority Designated Officer (LADO).

Examples of inappropriate behaviour that could potentially constitute a low-level concern that should be reported to the Headteacher may include (but not limited to):

- Being overly friendly with children – this could include, but is not limited to, communicating with a child through personal social media or allowing inappropriate conversations or enquiries to occur with pupils, e.g. conversations that are about a staff member's personal life or are of a sexual nature.
- Having favourites – this could include, but is not limited to, calling pupils by pet names or terms of endearment or buying pupils gifts.
- Taking photographs of children on their personal mobile phones or devices (that do not constitute abuse).
- Engaging with a child on a one-to-one basis in a secluded area or behind a closed door.
- Using inappropriate language in the presence of children

Staff will be made aware that some of the above low-level concerns may meet the harms threshold depending on certain factors, e.g. the age or needs of the child or the type of contact. They will be made aware that some of the above incidents may not be concerns in context, e.g. a pre- reported approved, one-to-one meeting with a child behind a closed door where a robust risk assessment has taken place

N.B. The context for all low - level concerns will be considered when determining threshold

Staff will also be made aware that behaviour which raises concerns may not be intentionally inappropriate, but that this does not negate the need to report the behaviour.

The school will ensure that all staff members are aware of the standards of appropriate behaviour expected towards pupils which is detailed in our code of conduct policy.

Staff will ensure that they pay due regard to the fact that:

- They are in a unique position of trust, care, responsibility, authority and influence in relation to pupils.
- There is a significant power imbalance in the pupil-staff dynamic.
- There are more stringent expectations on their behaviour with regard to pupils, due to their professional position.

Staff will remain aware of the fact that all pupils under the age of 18, regardless of the phase and year group they are at within the school, are children by law – resultantly, staff will ensure that they do not assume maturity on behalf of a pupil and do not engage with pupils as they would with their own peers. We have pupils until they are 19, so this would equally apply to them.

Staff will be aware that where there is any doubt regarding whether the behaviour of another adult is appropriate, this should be reported to the Headteacher (or if the concern relates to the Headteacher reported to Chair of Governors immediately.

In the case of the concern relating to the Headteacher then the Chair of Governors will consider the concern within context, seeking appropriate advice (e.g. LADO and/or HR)

Any staff members who engage in low-level inappropriate behaviour in relation to pupils will be made aware and supported to address this behaviour in line with the Staff Code of Conduct.

Self-Reporting

The school will ensure that an environment is maintained that encourages staff members to self-report if they feel as though they have acted inappropriately or in a way that could be construed as inappropriate upon reflection.

On occasion, a member of staff may feel as though they have acted in a way that:

- Could be misinterpreted.
- Could appear compromising to others and/or.
- falls below the standards set out in the Staff Code of Conduct/professional standards policy

The Headteacher will, to the best of their ability, maintain a culture of approachability for staff members, and will be understanding and sensitive towards those who self- report.

Reporting

Staff members will be aware that concerns should still be reported even if they do not seem serious.

Staff members will report their concerns to the Headteacher verbally, and by submitting a low level concern using My Concern. In ‘Concern Summary’ it should say ‘Concern about staff member’. When submitting concerns, staff will take care to ensure that they observe the Confidentiality Policy and the Allegations of Abuse Against Staff Policy, and protect the identity of all individuals to which the concern relates as far as possible.

Staff members may request anonymity when reporting a concern, and we will endeavour to respect this if possible. In line with the Whistleblowing Policy, staff will be protected from potential repercussions caused by reporting a genuine concern.

Where a low-level concern relates to the Headteacher, the concern should be reported to the Chair of Governors.

Where a low-level concern relates to a person employed by a supply agency or a contractor to work in the school, staff will also be required to report this to the Headteacher, as above, who will, in turn, inform the employer of the subject of the concern.

When concerns are reported the Headteacher will evaluate whether additional training would be beneficial for any staff members exhibiting concerning behaviour, or the staff as a whole where low-level concerning behaviour is seen more widely.

Responding to concerns (Defensible Decision Making)

When the Headteacher/Chair of Governors has received a low-level concern they will use their professional judgement to determine if the concern is low-level or if it must be immediately escalated. To evaluate a concern, the Headteacher will:

- speak to the person who raised the concern (unless it has been raised anonymously)
- review the information and determine whether the behaviour:
  - is entirely consistent with the organisation'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 agencies
- where the Headteacher/DSL is in any doubt whatsoever, they should seek advice from the LADO – on a no-names basis if necessary;
- 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);
- make appropriate records on My Concern of:
  - all internal conversations – including with the person who initially shared the low-level concern (where this has been possible),
  - the adult about whom the concern has been shared (subject to the above), and any relevant witnesses;
  -all external conversations – for example, with the LADO/other external agencies (where they have been contacted, and either on a no-names or names basis);
  - their decision and the rationale for their decision.

The Headteacher/DSL may need to seek advice from an external source, which they will do whilst adhering Data Protection protocols.

Where the concern is unfounded

If it is discovered upon evaluation that the low-level concern refers to behaviour that was not considered to be in breach of the Staff Code of Conduct, and the law, the Headteacher will speak to the individual about whom the concern was made to discuss their behaviour, why and how the behaviour may have been misconstrued, and what they can do to avoid such misunderstandings in the future.

The Headteacher will also speak to the individual who shared the concern, outlining why the behaviour reported is consistent with school standards and the law. The Headteacher will

take care to ensure that conversations with individuals who reported concerns that transpired to be unfounded do not deter that individual from reporting concerns in the future.

The Headteacher will consider the information within it's context and alongside any previous concerns to determine whether the behaviour, and the reporting of this behaviour, suggests some doubt in relation to school policies and procedures, or the training it offers to staff. Where such ambiguity is found, the Headteacher will work together with appropriate personnel (e.g. HR, Chair of Governors) to resolve this with input from other staff members, as necessary.

Where the Concern is Founded

Where the Headteacher determines that a concern is low-level, the school will respond to this in a sensitive and proportionate manner. The following procedure will be followed:

- The Headteacher will consider whether the individual should receive guidance, supervision or any further training.
- Where considered appropriate in the circumstances, the Headteacher will develop an action plan, with input from the individual, that outlines ongoing and transparent monitoring of the individual's behaviour and any other support measures implemented to ensure the staff member's behaviour improves
- Where it is necessary to undergo an investigation into the behaviour, this will be done discreetly, and information will only be disclosed to individuals on a need-to- know basis.
- Where any pupil or other individual has been made to feel uncomfortable by the individual's behaviour, they will be offered pastoral support, where appropriate.
- The Headteacher will hold a meeting with the individual about whom the concern was reported. The arrangements for this will include advising the individual the right to be accompanied during the meeting (e.g. Union Representative)

During the meeting, they will:
- Talk to the individual in a non-accusatory and sympathetic manner.
- Inform them of how their behaviour was perceived by the individual who reported the concern (without naming them, where possible).
- Clearly state what about their behaviour was inappropriate and problematic.
- Discuss the reasons for the behaviour with the individual. - Inform the individual clearly what about their behaviour needs to change.
- Discuss any support that the individual may require in order to achieve the proper standards of behaviour.
- Allow the individual the opportunity to respond to the concern in their own words.

- The Head teacher may ask the individual to re-read the Staff Code of Conduct and/or the inappropriate Relationships with Pupils Policy, depending on the nature of the concern.

The head teacher will ensure that all details of the low-level concern, including any resultant actions taken, are recorded and securely stored in line with the Data Protection Policy. The Headteacher will ensure that these records are chronological and up-to-date, and that it is easy to refer back to them if any future concerns are reported about the same individual. My Concern will be used for this purpose.

The specific approach to handling low-level concerns will be adapted on a case-by-case basis. It is unlikely that a low-level concern will result in disciplinary procedures; however, individuals may be given warnings in line with the Disciplinary Policy and Procedure where

behaviour does not improve once it is brought to their attention. Where behaviour does not improve over a longer period of time, the concerns will be escalated and dealt with in line with the Allegations of Abuse Against Staff Policy and Disciplinary Policy.

Where the concern is Evaluated as serious

The head teacher may decide on evaluation that a concern is more serious than originally thought, e.g. alongside previous concerns. Where this decision is made, the concern will be escalated, and dealt with as an allegation. The headteacher will then follow the procedures laid out in the Allegations of Abuse Against Staff Policy.

Record Keeping and Data Protection

The school will retain (in accordance with our Data protection and record retention policy) all records of low-level concerns, including those that were found to be unfounded. The Headteacher will ensure that all records include the most accurate and up-to-date information and will store them in accordance with our record keeping protocols. The Headteacher will ensure that all low-level concerns are stored together, in an organised and consistent manner, to ensure they can be easily reviewed and analysed where necessary. These records will be held by the Headteacher to enable oversight and highlight any patterns of behaviour.

All low level concerns, follow up to these concerns, and records of actions or action plans will be stored on My Concern. The staff member(s) reporting the concern must keep the information confidential and not share the concern with others apart from the relevant personnel (Headteacher, DSL, Chair of Governors)

The Headteacher will periodically review the recent low-level concerns log to ensure that they are being appropriately dealt with and to check for any concerning behaviour patterns amongst the staff cohort as a whole. The Head teacher will keep records of these reviews. Staff will be informed of their right to make a subject Access Request and of any entries made in this log which relate to them unless, by sharing information, compromises the safeguarding of others or threatens the anonymity of the person who shared the concern. Where there are multiple low-level concerns relating to the same individual these will be kept in chronological order as a running record. These records are kept confidential and held securely, with restricted access by the head teacher or HR as required.

Records of low-level concerns will not be kept in the personnel file of the individuals to whom the concerns pertain, unless there have been multiple low-level concerns made about the same individual. Where a concern is thought to be serious and is processed as an allegation, records of this will be kept in staff personnel files. Where multiple low-level concerns have been made about the same individual, these will be kept together, and in chronological order.

Where an allegation is made about an individual who has previously been subject to such allegations, or where a low-level concern is reclassified as a serious concern after meeting the harms threshold, all records of low-level concerns about that individual will be moved to the staff personnel file and kept alongside records of the allegation.

References

Low-Level Concerns will not be referred to in references unless they have been formalised into more significant concerns resulting in disciplinary or misconduct procedures.

Allegations which are proven to be false, unsubstantiated or malicious, should not be included in employer references. Likewise, a history of repeated concerns which have all been found to be false, unsubstantiated or malicious should also not be included in any reference.

Misconduct or consistent poor performance, where relevant, may be included. This would not normally include low-level safeguarding concerns unless the threshold is met for referral and found to be substantiated, where it should then be referred to in a reference. Where KCSIE does not apply, consideration must be given to legal obligations and duty of care in giving accurate references

There is no statutory guidance on the retention period records for low level concerns should be kept. We will retain the information for the period of an individual's employment. When a staff member for whom we have any record of low-level concerns leaves Brooklands School records will be reviewed and a decision will be made whether that information needs to be kept, the rationale for keeping it and the period of time it will be retained. Consideration will be given to: (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 (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

Role of the Governing Body

Any concerns or issues relating to the Low-Level Concern Policy will be included in the regular Safeguarding Report provided by the Headteacher for the Full Governing Body. The Governing body will monitor the implementation of the policy and assess its effectiveness.

Appendix A – Spectrum of Behaviour.

Allegation

Behaviour which indicates that an adult who works with children has:

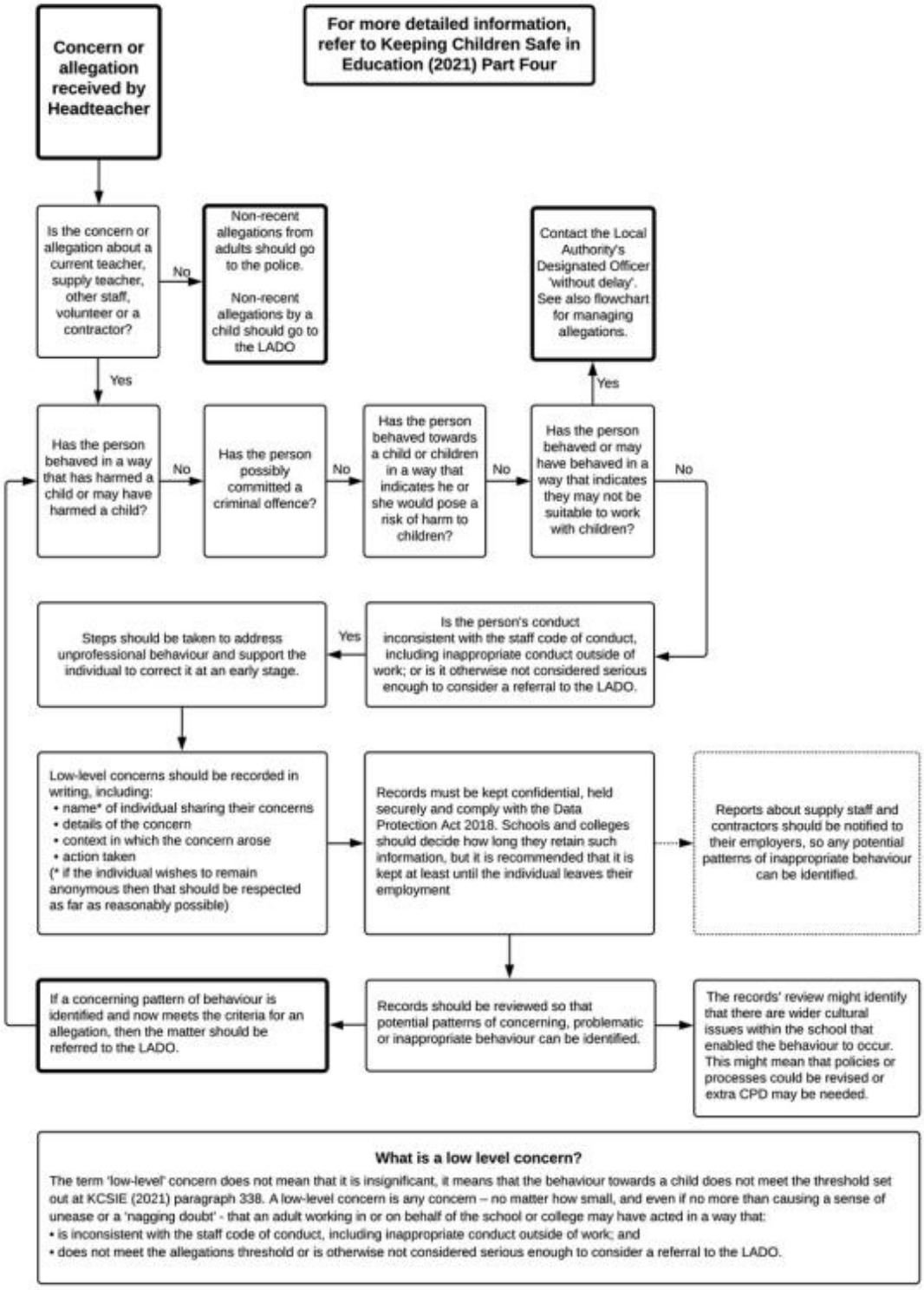
- behaved in a way that has harmed a child, or may have harmed a child;
- possibly committed a criminal offence against or related to a child;
- behaved towards a child or children in a way that indicates they may pose a risk of harm to children.

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 – Action Flow Chart