



## NCS Low Level Concerns Policy

Responsible Manager	Debra Cook
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## Version Control

NCS Trust is committed to the continuous improvement of its service offerings and underpinning policies and procedures. It will review the functionality of this policy and related procedures on an annual basis unless an incident warrants it being reviewed sooner or if there is new legislation or guidance that must be taken into account.

<b>Version</b>	<b>Date</b>	<b>Author and job title</b>	<b>Date of approval and by whom</b>	<b>Next review due and by whom</b>	<b>Comments (changes applied)</b>
1.0	January 2022	Debra Cook, Safeguarding Manager	Katie Davis (Head of Compliance and Quality Assurance)	January 2023 by Debra Cook	N/A

## **1. Statement of intent**

NCS Trust understands the importance of acknowledging, recording and reporting all safeguarding concerns, regardless of their perceived severity. We understand that, while a concern may be low-level, that concern can escalate over time to become much more serious. We are committed to creating a safe and prosperous culture and environment for all those engaging with NCS activities and in which all concerns about adults (including those where the threshold for an allegation is not met) are shared responsibly and with the right person. This is to create an open and transparent culture which will enable us to identify concerning, problematic or inappropriate behaviour at an early stage, before they have escalated minimising the risk of harm to our young people and other children. All our partners are expected to adhere to high standards of behaviour when it comes to professional conduct and should adhere to the boundaries outlined in their respective staff code of conduct guidance. Additionally, they should ensure that all of their staff are made aware of their individual responsibilities and the expectation that these are adhered to.

## **2. Legal framework**

This policy has due regard to all relevant legislation and statutory guidance including, but not limited to, the following:

- UK General Data Protection Regulation (UK GDPR)
- Data Protection Act 2018
- DfE (2021) 'Keeping children safe in education 2021'
- DfE (2018) 'Working Together to Safeguard Children'

This policy operates in conjunction with the following NCS policies:

- NCS Safeguarding Policy
- Data Protection Policy
- Minimum Standards

## **3. The distinction between an allegation and a low-level concern**

### **Allegation**

In this context, the term "allegation" means that 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; or
- Behaved towards a child or children in a way that indicates they may pose a risk of harm to 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;
- Have, as a parent or carer, become subject to child protection procedures;
- Are closely associated with someone in their personal lives (e.g. partner, member of the family or other household member) who may present a risk of harm to child/ren for whom the adult is responsible in their employment/volunteering.

### **Low-level concern**

A low level concern is any concern about an adult's behaviour towards a child that does not meet the allegation threshold as above, or is not otherwise serious enough to consider a referral to the Local Authority Designated Officer.

A low-level concern is 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 an organisation's staff 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
- 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 Delivery Partner Safeguarding Lead.

Although Working Together to Safeguard Children (2018) does not currently provide any formal mechanism for handling concerns about adults working with children that do not meet the threshold of allegation, Keeping Children Safe in Education (2018, paragraphs 407-426), provides guidance in relation to recording, reporting and referring concerns that do not meet the threshold of allegation.

### **Responsibility of the Delivery Partner's Designated Safeguarding Lead (DSL)**

The Designated Safeguarding Lead (DSL) for our respective delivery partners is responsible for being a point of contact for all staff when they have safeguarding concerns, regardless of how serious the concern might be. They will also be responsible for assessing whether the safeguarding concerns about a network staff member meets the threshold for being termed an allegation or whether they are low-level concerns. The DSL is also responsible for keeping detailed,

accurate, timely and secure records of all low-level concerns and any actions taken.

### **Network Staff Responsibilities**

All our network and partners are responsible for adhering to relevant policies and procedures, including acting within their respective organisation's staff code of conduct at all times. It is crucial that all staff understand the importance of reporting low-level safeguarding concerns. Additionally, staff need to be aware of the standards of appropriate behaviour expected towards all participants on NCS activities and recognise that due to their position they are in a unique position of trust, care, responsibility, authority and influence in relation to those participating in programmes and events. Staff need to remain aware of the fact that all participants under the age of 18, are children by law and resultantly, will need to ensure that they do not assume maturity on behalf of a participant and do not engage with participants in the same way as they would their peers.

All our network will be aware that where there is any doubt regarding whether the behaviour of another adult is appropriate, this should be reported to the respective delivery partner's Designated Safeguarding Lead (DSL). Inappropriate behaviour can exist on a wide spectrum, from inadvertent or thoughtless behaviour to behaviour which is ultimately intended to enable abuse. Examples of inappropriate behaviour that would constitute a low-level concern that should be reported to the respective partner's DSL include being overly friendly with children. This could include, but is not limited to:

- communicating with a child through social media or allowing inappropriate conversations or enquiries to occur with NCS participants. For example, 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 young people by pet names or terms of endearment or buying young people gifts.
- Taking photographs of children on their personal mobile phones or devices.
- 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.

Our network will be aware that some of the above low-level concerns may meet the harm threshold depending on certain factors, e.g. the age or needs of the child or the content of exchanged messages, and that some of the above incidents may not be concerns in context. Additionally, they will be made aware that behaviour which raises concerns may not be intentionally inappropriate, and that this does not negate the need to report the behaviour. All network staff members who engage in low-level inappropriate behaviour in relation to participants inadvertently will be made aware and supported to correct this behaviour in line with their respective Staff code of conduct.

## **Evaluating culture following concerns**

Delivery Partners will ensure that appropriate consideration is given to the staff culture and whether or not it has enabled the inappropriate behaviour to occur. The Designated Safeguarding Lead for a respective delivery partner will review whether any changes need to be made to relevant policies or training in order to achieve an open and transparent culture that deals with all concerns promptly and appropriately.

## **Reporting Concerns**

NCS delivery partners will promote a culture in which safeguarding participants on all NCS related events 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. NCS acknowledges that delivery partners may have robust reporting processes therefore we expect that their processes for reporting low level concerns to include the points outlined in this guidance. All staff throughout the network should report all safeguarding concerns to their respective Designated Safeguarding Lead in line with the procedures laid out in the NCS Safeguarding Policy. Staff members should report concerns without undue delay. Where the report concerns a specific incident, staff members should report their concerns no later than 24 hours after the incident where possible. Staff members should be aware that concerns are still worth reporting even if they do not seem serious. Staff members should report their concerns to the Designated Safeguarding Lead verbally. When submitting concerns, staff should take care to ensure that they observe confidentiality and protect the identity of all individuals to which the concern pertains as far as possible. Staff members may request anonymity when reporting a concern, and our delivery partners should endeavour to respect this as far as possible. However, anonymity cannot be promised to staff members who report concerns in case the situation arises where they must be named, e.g. where it is necessary for a fair disciplinary hearing. Where a low-level concern relates to a person employed by a supply agency or contract staff, the respective delivery partner's Designated Safeguarding Lead will also be required to report this to the employer of the subject of the concern.

## **Self-Reporting**

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.
- Upon reflection, falls below the standards set out in their Staff code of conduct.

Delivery partners should ensure that an environment is maintained that encourages their 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. The Designated Safeguarding Lead will, to the best of their abilities, maintain a culture of approachability for staff members, and will be understanding and sensitive towards those who self-report.

Staff members who self-report will not be treated more favourably during any resulting investigations than staff members who were reported by someone else; however, their self awareness and intentions will be taken into consideration.

### **Evaluating concerns**

Where the delivery partner's Designated Safeguarding Lead (DSL) is notified of a safeguarding concern, they should use their professional judgement to determine if the concern is low-level or if it must be immediately escalated, e.g. where a child is at immediate risk of harm.

When deciding if a concern is low-level, the DSL will seek advice from external agencies where there is any doubt about how seriously to take the concern. When seeking external advice, the DSL will ensure they adhere to the Data Protection Policy, and the information sharing principles outlined in the NCS Safeguarding Policy, at all times.

To evaluate a concern, the DSL should:

- Speak to the individual who raised the concern to determine the facts and obtain any relevant additional information.
- Review the information and determine whether the behaviour displayed by the individual about whom the concern was reported is consistent with their Staff code of conduct and the law.
- Determine whether the concern, when considered alongside any other low-level concerns previously made about the same individual, should be reclassified as an allegation and dealt with accordingly
- Consult with, and seek advice from, external agencies when in doubt over the course of action to follow.
- Speak to the individual about whom the concern has been raised to inform them of the concern and to give them an opportunity to respond to it.
- Ensure that accurate and detailed records are kept of all internal and external conversations regarding evaluating the concern, and any actions or decisions taken.

## **Acting on concerns**

If it is discovered upon evaluation that the low-level concern refers to behaviour that was not considered to be in breach of their Staff code of conduct, the delivery partner's Designated Safeguarding Lead (DSL) along with the staff member's line manager will speak to the individual about whom the concern was made to, discuss their behaviour, why and how the behaviour may have been misconstrued. The DSL should 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 DSL should discern whether the behaviour, and the reporting of this behaviour, is indicative of ambiguity in their respective policies and procedures or the training it offers to staff. Where such ambiguity is found, the DSL should work to resolve this with input from other staff members, as necessary.

### **Where the concern is low-level**

Where the delivery partner's Designated Safeguard Lead (DSL) determines that a concern is low-level, this will be responded to in a sensitive and proportionate manner. The following procedure will be followed:

- The DSL holds a meeting with the individual about whom the concern was reported, during which they should:
  - 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 states 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.
  - Signpost the individual to further support as they may find the allegation distressing.
  
- The DSL asks the individual to re-read the Staff code of conduct
- The DSL should consider whether the individual should receive guidance, supervision or any further training.
- Where considered appropriate in the circumstances, the DSL should 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 young person or other individual has been made to feel uncomfortable by the individual's behaviour, they should be offered pastoral support, where appropriate.

The delivery partner's DSL will ensure that all details of the low-level concern, including any resultant actions taken, are recorded and securely stored in line with their Data Protection Policy. The person with overall responsibility for safeguarding will ensure that these records are kept organised and up-to-date, and that it is easy to refer back to them if any other concerns are reported about the same individual. These records will be subject to a Subject Action Request (SAR), which an individual can apply for to establish whether their personal information is being used or stored by an organisation.

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. If the staff member is not directly contracted with the delivery partner, the concern should be shared with the specific supplier and a record should be kept that this has been undertaken

### **Where the concern is serious**

The delivery partner's Designated Safeguarding Lead (DSL) may decide upon evaluation that a concern is more serious than the reporter originally thought, e.g. when viewed in conjunction with other evidence or other concerns made about the same individual. Where this decision is made, the concern should be escalated, and dealt with as an allegation. The DSL should also ensure that all records include the most accurate and up-to-date information and will store them in a safe and secure electronic low-level concerns file. If the case were to escalate and then deemed to be no longer a low-level concern, this information should be recorded on Salesforce. The DSL 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.

### **Records will 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 will be respected as far as reasonably possible.

The DSL should periodically review the recent low-level concerns made 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 DSL should keep records of these reviews.

Where any concerning patterns of behaviour have been identified with regard to a member of staff, the DSL should consult with the Director of Safeguarding to decide on a course of action. Where a pattern of behaviour has become so concerning that it meets the harm threshold, this will be referred to the LADO as soon as practicable.

Records of low-level concerns should not be kept in the HR 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 should be kept in staff personnel files. Where multiple low-level concerns have been made about the same individual, these should 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 harm threshold, all records of low-level concerns about that individual should be moved to the staff personnel file and kept alongside records of the allegation.

Records should be confidential, kept password-protected. Low-level safeguarding concerns should not be included in a reference, unless they have comprised a pattern of behaviour that has met the harms threshold.

### **Monitoring and Review**

This policy will be reviewed annually by the NCS Safeguarding Manager and in response to any new safeguarding requirements or concerns surrounding the wider cultural issues evidenced at local, regional or national levels. The next scheduled review for this policy is January 2023.