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Low-Level Concerns Policy

APRIL 2023



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The Policy

This policy is part of the DofE's Safeguarding framework to help us safeguard participants and others who come into contact with DofE through our activities.

DofE recognises that it may receive information which amounts to low-level concerns about individuals in our network of licensed providers (such as Licensed Organisations, LOs, Approved Activity Providers, AAPs, and those in accredited roles) either from our staff and volunteers or from parents, participants or other members of the public.

As part of our commitment to safeguarding, we welcome this information and we will act on it, as referenced in this policy.

Purpose

DofE is committed to promoting an open and transparent culture where safeguarding concerns are taken seriously and addressed quickly. By working together to identify concerning, problematic or inappropriate behaviour early, we aim to minimise the risk of abuse.

The DofE sets out its expectations of all its staff and volunteers in the Code of Conduct and Professional Boundaries Policy. This is how we aim to live out and reinforce our values every day. When a member of staff or a volunteer's behaviour falls short, it is important that this is addressed without delay in a proportionate and appropriate way. Such instances are known in this policy as either a 'low-level concern' or 'allegation'. An allegation, where there is a risk of harm, is more serious. In such cases, the DofE's Managing Allegations Against Adults Procedures must be followed.

The reporting of low-level concerns should be seen as a neutral act. DofE recognises that low-level concerns cover a broad spectrum of actions and can include both intentional and unintentional or inadvertent behaviour or consequences. It is therefore important the response is proportionate and appropriate.

The purpose of this policy is to ensure that everyone at DofE knows and understands the importance of reporting any concern about themselves or colleagues, no matter how small, and how to report them.

By doing so, we can

- » better safeguard children and adults at risk
- » support staff and volunteers regarding the expectations of the DofE charity
- » avoid unnecessary escalations and reduce risks



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What we mean by Low-Level Concern

A low-level concern is any concern that an adult has behaved in a way that

- » is inconsistent with the DofE code of conduct. This includes inappropriate conduct both inside and outside of work
- » does not meet the threshold of harm or is not considered serious enough for the DofE to refer to the local authority

Low-level concerns include a spectrum of behaviours which may be

- » intentionally designed to facilitate abuse
- » unintentional, inadvertent or thoughtless

The key is that the behaviour is inappropriate and not what DofE expects, as set out in our Code of Conduct and Professional Boundaries Policy (for DofE staff and volunteers) and our Safeguarding Standards for DofE network. It may take place face-to-face, in writing or digitally such as in online meetings, or via social media or email.

Examples include

- » showing favouritism
- » being over-friendly
- » using inappropriate language that is sexual, profane, intimidating or offensive
- » inappropriate touching or initiating hugging
- » intimidation, punishment or degrading treatment

To support the implementation of this policy, DofE will provide support, information and training so that staff and volunteers

- » are clear about what is meant by appropriate behaviour and can distinguish this from concerning, problematic or inappropriate behaviour in themselves and others
- » can recognise the importance of professional boundaries and when to report concerns
- » feel empowered to share any low-level concerns with the DSL and through the reporting system
- » know that the response will be measured and proportionate



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When receiving low-level concerns, DofE will

- » ensure all concerns that are raised are handled sensitively and proportionately
- » undertake to weigh up information in order to distinguish between unprofessional behaviour and intentional harm or abuse
- » identify concerning, problematic or inappropriate behaviour – including any patterns – that may need to be consulted upon with, or referred to, the local authority dedicated officer (LADO) or equivalent officer
- » focus on the behaviour, not the language used to describe or report it
- » address unprofessional behaviour and support the individual to correct it at an early stage
- » identify any areas for development in the organisation's safeguarding system as well as any training needs

Thresholds and when this Policy applies

An 'allegation of harm' is where it is alleged that a person who works with children or adults at risk has or may have behaved in a way that meets the **harm threshold** as specified below:

- » behaved in a way that has harmed or may have harmed a child or adult at risk;
- » possibly committed a criminal offence against or related to a child or adult at risk;
- » behaved towards a child or children or adult/s at risk in a way that indicates they may pose a risk of harm to children or adults at risk;
- » behaved or may have behaved in a way that indicates they may not be suitable to work with children or adults at risk (this behaviour includes inside and outside of the workplace)

In this case, staff and volunteers should follow the Managing Allegations Against Adults Procedures and report the matter to the DSL.

Concerns that do not meet the **harm threshold** are treated as low-level concerns.

The term 'low level' concern does not mean that it is insignificant, it means that the adult's behaviour towards a child or adult at risk does not meet the harm threshold.



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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 an organisation’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 or equivalent local authority professional – but may merit consulting with and seeking advice from them.

Staff and volunteers 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 local authority, or whether it meets the threshold of an allegation.

Once the concern has been shared, the determination about thresholds and appropriate action should be made by the DSL who will follow the appropriate procedures in line with that decision. The DSL may seek advice from the local authority LADO or local authority equivalent in order to make the determination and decide next steps.

Procedures

Sharing a Low-Level Concern

Any low-level concern must be shared with the DSL or DDSL without delay and within 12 hours of the incident or becoming aware of it. The DSL and DDSL can be contacted by emailing safeguarding@dofe.org

Where the concern relates to the DSL or DDSL, it must be raised with the DofE’s Chief Executive Officer.

If for any reason, a Low-Level Concern is not shared within the 12 hours, delay should never be seen as a barrier to raising it with the DSL.

Where the concern relates to an LO, AAP or accredited individual the DSL will share the information without delay with the DSL of the relevant licensed organisation(s).

In such circumstances, the DofE may speak to the appropriate LADO or other relevant professionals in order to seek advice and ensure that appropriate action is taken to safeguard participants and the public.



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Recording the Concern

The concern may be shared verbally or in writing, using the form in this Policy. Where raised verbally, the DSL will make a written record at the time or immediately after.

The DSL will use professional judgement to decide the detail to be recorded but it will include

- » name and role of the person sharing the concern
- » name and role of the person about whom the concern is raised (including their role at the time of the concern, if different)
- » brief context in which the concern arose
- » details of the concern including dates, ensuring information is accurate as possible and chronological
- » the record must be signed and dated. The time the record was made should also be included

Anonymity

Where the person raising the concern wishes to remain anonymous, this will be respected as far as possible. However, in order to conduct a fair and thorough investigation it may be necessary to use names and so anonymity cannot be promised. In the spirit of an open and transparent culture, staff and volunteers are encouraged to give their consent to be named, wherever possible.

Self reporting

DofE recognises that staff or volunteers may find themselves in a situation which could be misinterpreted, or might appear compromising to others, or, on reflection feel they behaved in a manner which they consider falls below the standard set out in the code of conduct.

DofE encourages self-reporting in these circumstances, and it is seen as a positive action. Self-reporting promotes safeguarding and safer practice by

- » enabling staff and volunteers to get support with a potentially difficult issue and/or addressing it at the earliest opportunity;
- » demonstrating awareness of the expected behavioural standards and self-awareness as to the person's own actions or how they could be perceived; and,
- » contributing to maintaining a culture where everyone aspires to the highest standards of conduct and behaviour



Self-reporting can be done in the first instance by speaking to your line manager as soon as possible. The line manager will share the information with the DSL:

- » for support and advice;
- » to identify actions or wider implications for the organisation such as policy or training

The line manager will follow the Recording the Concern procedure above and send securely to the DSL with a follow-up phone call.

Responding to the Concern

Investigation into a low-level concern will be done discreetly and on a need-to-know basis.

On receipt of the concern, the DSL will take the following actions (not necessarily in the order set out)

- » speak to the person who raised the concern (unless it has been raised anonymously), regardless of whether a written summary, or completed low-level concerns form has been provided;
- » speak to any potential witnesses (unless advised not to do so by the LADO or equivalent professional and/or 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 or equivalent professional and/or other relevant external agencies, where they have been contacted);
- » where the concern relates to the individual's behaviour or relationships outside the workplace, the DSL must conduct a risk assessment concerning transferrable risk into the workplace and the safety of children or adults at risk they work or volunteer with
- » review the information and determine whether the behaviour:
 - i. is entirely consistent with the DofE code of conduct and the law
 - ii. constitutes a low-level concern
 - iii. is not serious enough to consider a referral to the local authority – but may merit consulting with and seeking advice from them
 - iv. when considered with any other low-level concerns that have previously been raised about the same individual, could now meet the threshold of an allegation and should be referred to the LADO or equivalent local authority professional
 - v. in and of itself meets the threshold of an allegation and should be referred to the LADO or equivalent local authority professional.



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Records during investigation

Whilst conducting the investigation and making decisions, the DSL will make a record of

- » all internal conversations
- » all external conversations – for example, with the LADO or equivalent local authority professional, other professionals
- » the rationale for decisions
- » actions to be taken and by whom

The record will include the names, roles, dates and times of conversations; emails and other relevant documentation.

Possible Outcomes

i. If the behaviour is found to be entirely consistent with DofE Code of Conduct and the law, the DSL will:

- » update the individual in question and inform them of the action taken as above
- » 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 DofE Code of Conduct and the law
- » consider if the situation may indicate that the Code of Conduct and Professional Boundaries Policy or Low-Level Concerns Policy are not clear enough, or if further training is needed

If the same or a similar low-level concern is subsequently shared about the same individual, and the behaviour in question is also consistent with the DofE Code of Conduct and the law, then an issue may need to be addressed about how the subject of the concern's behaviour is being perceived by others.

ii. If the behaviour is found to constitute a low-level concern, it will be responded to 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 and volunteers from any potential false allegations or misunderstandings.

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.



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Other concerns may most appropriately require management guidance and/or training including a refresher about the Code of Conduct and Professional Boundaries.

Conversations will include

- » being clear with the individual as to why their behaviour is concerning, problematic or inappropriate, using examples
- » explaining clearly what change is required in their behaviour
- » discussing what, if any, support they might need in order to achieve and maintain the required behaviour
- » being clear about the consequences if they fail to be consistent with the Code of Conduct and/or repeat the behaviour in question

The approach should be positive and avoid critical, threatening or blaming language or behaviour.

Follow up actions may include

- » ongoing and transparent monitoring of the individual's behaviour
- » an action plan or risk assessment which is agreed with the individual, and regularly reviewed with them

Where the low-level concern raises issues of misconduct or poor performance, the DSL will seek advice from the People Team (staff) or the Volunteer Manager (volunteers) and may discuss this with the individual's line manager regarding who has the follow up conversation with the individual.

Low-Level Concerns and other Policies and Procedures

Where the concern is found to require other internal processes to be followed, such as disciplinary, the DSL will exercise their professional judgement and, if in any doubt, they will seek advice from other external agencies including the LADO or equivalent professional.

Where DofE's disciplinary procedure (Staff) or Volunteer Management procedure (volunteers) is triggered, DofE will ensure that the individual has a full opportunity to respond to any factual allegations which form the basis of a disciplinary or volunteer management case against them.



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- iii. If the behaviour, whilst not sufficiently serious to consider a referral to the LADO or equivalent professional but nonetheless merits consulting with and seeking advice from them, then action (if/as necessary) will be taken in accordance with such advice.
- iv. If, when considered with any other low-level concerns that have previously been shared about the same individual, the present concern could now meet the threshold of an allegation, then it will be referred to the LADO or equivalent professional
- v. If the behaviour in and of itself meets the threshold of an allegation, it will be referred to the LADO or equivalent professional and the Managing Allegations Against Adults Procedures will apply

Storage and Retention

Storage

DofE will retain all records of low-level concerns (including those which are subsequently deemed by the DSL to relate to behaviour which is entirely consistent with the DofE Code of Conduct) in a central electronic low-level concerns file.

The records will be kept confidential and held securely with limited access given to the DSL, the DDSL and Director of Quality and Compliance.

Records will contain referrals made to the LADO or equivalent professional

Where multiple low-level concerns have been shared regarding the same individual, these will be kept in chronological order.

Low-level concerns will not be stored on personnel files. In line with best practice, keeping low-level concerns separately will allow DofE to spot any potential patterns of behaviour whilst reassuring staff and volunteers to share their concerns.

Records relating to behaviour which meets (iii), (iv) or (v) above, should be placed and retained on the staff member's personnel file, whilst also being retained on the central low-level concerns file.

The information on the personnel file will be retained to allow DofE to hold a clear and comprehensive summary of all allegations (except those which are found to have been malicious), details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached. A copy will be provided to the individual.



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Review

The DSL will review the central low-level concerns folder 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 and addressed.

The DSL will create a record of these reviews and it will be stored alongside the folder, along with any subsequent actions taken.

The Safeguarding Board and Trustees will receive relevant data relating to Low-Level Concerns. This will include a review of anonymised samples of low-level concerns at regular intervals, in order to ensure that these concerns have been responded to promptly and appropriately.

Retention

Low-level concerns will be retained electronically in a secure central low-level concerns folder.

When a staff member or volunteer leaves and/or takes up new employment, this should be seen as a reminder for the DSL to review the content of the individual's file 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.

This is subject to the rights of individuals to object to or seek to erase or correct records about them under data protection law.



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References

Data protection law and best practice means that DofE must not refer to unsubstantiated, malicious or false allegations in references.

Only safeguarding allegations that have been substantiated should be included in references.

Whilst Keeping Children Safe in Education (KCSiE) does not legally apply to DofE, it is nonetheless seen as good guidance. KCSiE states that: “where a low-level concern (or group of concerns) has met the threshold for referral to the LADO and found to be substantiated, it should be referred to in a reference.”

Low-level concerns (or a group of concerns) which have not met the threshold for referral to the LADO which relate only to safeguarding 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.

Relevant policies and further information

- Code of Conduct and Professional Boundaries Policy
- Complaints Policy
- Safeguarding Policy
- Managing Allegations about Staff and Volunteers Policy
- Whistleblowing Policy