
Developing and implementing a low-level concerns policy: a guide for organisations which work with children

Safeguarding Unit, Farrer & Co (Adele Eastman, Owen O'Rorke, Katie Fudakowski and David Smellie), Marcus Erooga, and Delyth Lynch



This document was drafted to align with KCSIE 2023. Since there were no material changes in KCSIE 2024 it remains as published but has been reviewed for compliance. The next review will accommodate the changes due in KCSIE 2025.

Contents

1.	Introduction	1
2.	Definitions	2
3.	Concerns/allegations	3
4.	The importance of sharing low-level concerns	5
5.	What can we learn from serious case reviews?	7
6.	Designing, implementing and embedding a written low-level concerns policy - initial points to consider	8
7.	Do any issues under data protection law arise?	10
8.	Other specific questions to address when designing, implementing and embedding a low-level concerns policy	10
9.	How should low-level concerns be held?	15
10.	Should the central low-level concerns file be reviewed?	16
11.	Where should records of a low-level concern be kept and for how long?	16
12.	Should a low-level concern be referred to in a reference?	17
13.	What is the role of the Governance Body?	17
14.	Conclusion	17
Appendices		18

1. Introduction

- 1.1 Organisational culture is a ‘slippery’ concept – often referred to but rarely defined. It is culture, however, that sets the context and expectations of all behaviour in an organisation, and a positive culture where concerns can be identified and spoken about openly is a key element of a strong safeguarding system.
- 1.2 What that means in practice is ensuring that all those who work with children behave appropriately, and the early identification and prompt and appropriate management of concerns about adults, is critical to effective safeguarding.
- 1.3 Creating a culture in which **all** safeguarding concerns and allegations about adults (including those that do not meet the harm threshold) are shared responsibly and with the right person, and recorded and dealt with appropriately, is crucial. If implemented well this should encourage an open and transparent culture; enable organisations to identify inappropriate, problematic or concerning behaviour early; minimise the risk of abuse; and ensure that adults working in or on behalf of the organisation are clear about professional boundaries and act within them, in accordance with the ethos and values of the organisation.
- 1.4 Behaviour which is not consistent with the standards and values of an organisation, and which does not meet the organisational expectations encapsulated in their staff code of conduct, needs to be addressed.¹ Such behaviour can exist on a wide spectrum – from the inadvertent or thoughtless, through to that which is ultimately intended to enable abuse. Where a concern or allegation about an individual’s behaviour may meet the harm threshold, clear guidance exists (as referred to below) on how organisations should report, record and manage it.² Where a concern or allegation falls below that threshold the position was much less clear until the Department for Education (**DfE**) published its revised statutory guidance for schools and colleges in England, *Keeping Children Safe in Education (KCSIE)* September 2021 – and with further changes made in September 2022, as reflected below. A minor change has been made regarding low-level concerns in KCSIE 2023 (referred to as **KCSIE** throughout this guidance), again, as reflected below (in our paragraph 3.1.5(b)).
- 1.5 Prior to this, following Farrer & Co’s role as Secretariat to Hugh Davies KC on his independent review in 2014 arising from the criminal conduct of William Vahey at an international school (the Davies Review),³ and one of his principal recommendations regarding ‘neutral notifications,’ Farrer & Co assisted a number of schools with introducing a formal written policy on sharing low-level concerns (as we and the DfE now call them), or neutral notifications (as some others currently still refer to them), regarding an adult’s behaviour with respect to children.
- 1.6 The authors of this guidance believe, based on empirical evidence and our respective experience, that there is considerable potential in this context to create a safer environment for children, and that there is a need for a revised national approach – in organisations which work with children across **all** sectors (beyond education, in respect of which the DfE is leading the way). This includes, for example, charities, sports organisations, and faith settings. If this is not adopted, such organisations risk enabling the creation of further victims through missed opportunities to identify and effectively intervene in inappropriate, problematic or concerning behaviour.
- 1.7 This guidance draws on the following to explain how organisations which work with children can develop, implement and embed a written low-level concerns policy, as part of a culture that enables staff to share **any** concerns or allegations (including those that do not meet the harm threshold) – no matter how small, and how these organisations should respond to them:
 - our experience, inquiries, serious case reviews, and published research – including, for example, that of Marcus Erooga, who considered common factors in organisational child sexual abuse in a review of 20 serious case reviews relating to such abuse in the UK from 2010 to 2016 (as referred to in more detail on [page 6](#));
 - research undertaken more recently by the [Safeguarding Unit](#) at Farrer & Co, in conjunction with Marcus Erooga, which involved us designing two versions of a questionnaire – one for schools at which an **approach** was being taken to sharing low-level concerns/neutral notifications (**approach**), and another for schools at which a **formal policy** existed on sharing low-level concerns/neutral notifications (**policy**). A total of 18 schools responded – 13 of which completed the approach questionnaire, and 5 completed the policy questionnaire (**our research**).

1 As referred to later in this guidance, the staff code of conduct will ideally be informed by: Safer Recruitment Consortium (2022) *Guidance for safer working practice for those working with children and young people in education settings (GSWP)*, accessed on 31 August, 2023 at <https://www.saferrecruitmentconsortium.org>

2 HM Government (2018) *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children (WTSC)*, accessed on 31 August, 2023 at <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>; Department for Education (2023) *Keeping Children Safe in Education: Statutory guidance for schools and colleges (KCSIE)*, accessed on 31 August, 2023 at <https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>; and, for example, London Safeguarding Children Procedures (LSCP), Practice Guidance, CP7, accessed on 31 August, 2023 at https://www.londonsafeguardingchildrenprocedures.co.uk/alleg_staff_staff.html

3 Davies, H. (2014) *Southbank International School Independent Review arising from the criminal conduct of William Vahey: Interim Report*, London, Farrer & Co, LLP; and Davies, H. (2014) *Southbank International School Independent Review arising from the criminal conduct of William Vahey: Final Report*, London, Farrer & Co, LLP

Whilst we consider the data obtained to be valuable, we are mindful that there are limitations in terms of the methodology used – including the fact that it is a small sample, and that there are a number of potential ‘biases.’ Further information on the research and data collated can be made available on request by Farrer & Co⁴; and

- working alongside various schools and organisations which have effectively written and implemented a low-level concerns policy. One such school is Wellington College and a case study highlighting their journey can be found at [Appendix G](#) of this guidance. Whilst Wellington College is blazing a trail with respect to its approach to low-level concerns, it is recognised that not every school or college (or other organisation) will necessarily have the same resources or culture. However, it is hoped, nonetheless, that the case study will be inspiring and encouraging as it demonstrates how transformative sharing low-level concerns can be on an organisation’s safeguarding culture.
- 1.8 We recognise that there is some resistance within the safeguarding field to the concept of anything being a ‘low-level’ concern. However, it is used here as a clear and comprehensible term to **neutralise the act of sharing** a concern or allegation which neither may meet the harm threshold set out below, nor is otherwise serious enough to merit a referral to the local authority designated officer (**LADO**). We believe that such straightforward and comprehensive shorthand is both necessary and effective in practice.
- 1.9 Whilst we consider a written low-level concerns policy to be an important part of the suite of safeguarding policies that exists at an organisation which works with children, its successful introduction will be a process rather than an event. Having the confidence of all staff that it will, in practice, be used in the way the policy describes will be a key part of ensuring it is implemented and embedded successfully. In accordance with KCSIE, schools and colleges in England should, as good practice, set out their low-level concerns policy within their staff code of conduct and safeguarding and child protection policies. A starting point for other organisations is to first realistically assess their own organisational culture, and consider whether it is currently conducive to introducing such a policy and, if not, what action it needs to take to reach that position.
- 1.10 This guidance focuses on low-level concerns regarding adults’ behaviour with respect to children including:

- the option of **adults either sharing** such concerns about the behaviour of other adults, **or self-reporting** such concerns; and
- as explained below (see definition of a low-level concern at paragraph 3.2), where an adult who works with children may have acted in a way that contravenes the relevant organisation’s staff code of conduct, including inappropriate conduct outside of work – and **does not** meet the harm threshold, or is otherwise not serious enough to merit a referral to the LADO. **The behaviour may not relate directly to a particular child or children but may nonetheless raise an issue or issues of concern with respect to safeguarding a child/children, and may potentially call into question the adult’s suitability to work with children.**

Whilst this guidance does not focus on the sharing of low-level concerns (i) about adults by children, or (ii) in the context of child-on-child abuse, or (iii) in the context of adults’ behaviour towards adults at risk⁵, we believe that the same fundamental principles nonetheless apply.

2. Definitions

2.1 References in this guidance:

- 2.1.1 ‘**Headteacher/Principal**’ means of schools and colleges in England to which KCSIE applies;
- 2.1.2 ‘**staff**’ should be interpreted **very widely** to mean anyone associated with the organisation – ie whether working in or on behalf of the organisation, 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 Governance Body;
- 2.1.3 ‘**Governance Body**’ means those individuals who are responsible for an organisation’s governance – for example, in a school setting, the governors; in a charity, the trustees; and in a sports organisation, the directors;
- 2.1.4 ‘**Designated Safeguarding Lead**’ (**DSL**) means, as stated in KCSIE, “...an appropriate **senior member** of staff, from the school or college **leadership team**” who “should take **lead responsibility** for safeguarding and child protection (including online safety and understanding the filtering and monitoring systems and processes in place). This should be explicit in the role holder’s job description”;⁶
- 2.1.5 ‘**Safeguarding Lead**’ means the person in an organisation (not a school or college) with overall safeguarding responsibility.⁷

⁴ This information was previously included in an appendix in the former versions of this guidance. However, it is no longer considered to be necessary to include – particularly in light of the content on low-level concerns now contained within KCSIE, and consultations in relation to that carried out by the DfE

⁵ By ‘adults at risk’ we mean those who meet the eligibility criteria of adults with care and support needs under the Care Act 2014

⁶ See KCSIE, paragraph 103, and also paragraph 104 which states that: “Governing bodies and proprietors should ensure the [DSL] has the appropriate status and authority within the school or college to carry out the duties of the post. The role carries a significant level of responsibility and the postholder should be given the additional time, funding, training, resources, and support needed to carry out the role effectively”

⁷ Different organisations are likely to use different titles for this role – for example, some sports organisations may use ‘Safeguarding Officer’ but for the purpose of this guidance, and mindful of the variety of organisations to which it can apply, the term ‘Safeguarding Lead’ is used

The Safeguarding Lead is distinct from the designated officer employed by the local authority to manage and have oversight of concerns and allegations across the children's workforce (LADO); and

2.1.6 'nominated individuals' are members of staff (such as 'values champions') who are specifically selected and trained to be available and to listen to any low-level concerns that staff may bring to their attention, and to share them with the relevant individual stipulated within their organisation's low-level concerns policy (as explained below at paragraph 8.9).

3. Concerns/allegations

It is important to recognise that, in practice, the words 'concern' and 'allegation' can be and are used interchangeably by different people. Sometimes individuals may shy away from the word 'allegation' and express it as a 'concern' instead. The crucial point is that whatever the language used, the behaviour referred to may, on the one hand, be capable of meeting the harm threshold (and hence be referable), or, on the other, it does not meet the harm threshold (in which case it should be treated as a low-level concern). So, the focus should not be on the language used by the person disclosing it; the focus should, instead, be on the behaviour being described.

3.1 Definition: Concern or allegation that may meet the harm threshold

3.1.1 This means the behaviour in question might indicate that a person would pose a risk of harm if they continue to work in their present position, or in any capacity with children (ie in connection with their employment or voluntary activity)⁸ – ie a concern is raised/it is alleged that they have:

- **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.**⁹

3.1.2 KCSIE states that:

- in terms of managing cases of concerns or 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 or college;
- the final bullet above (in 3.1.1) includes behaviour that may have happened outside of school or college, that might make an individual unsuitable to work with children, which is known as transferable risk; and
- where appropriate, an assessment of transferable risk to children with whom the person works should be undertaken, and if in doubt, advice sought from the LADO.¹⁰

3.1.3 The London Safeguarding Children

Procedures (LSCP) also make it clear that, with respect to any person who works with children, concerns or allegations can relate to their 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; and/or
- are closely associated with someone in their personal lives (eg 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.¹¹

3.1.4 (a) Working Together to Safeguard

Children, July 2018 (WTSC), states that "...Any allegation against people who work with children should be reported immediately to a senior manager within the organisation or agency. The [LADO] or team of officers, should also be informed within one working day of all allegations that come to an employer's attention or that are made directly to the police."¹²

- (b) This obligation to report allegations applies to schools and colleges, faith organisations, and voluntary and private sector

⁸ As stated by KCSIE, the harm test is explained on the Disclosure and Barring Service website <https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs#what-is-the-harm-test> and Section 31(9) of the Children Act 1989 as amended by the Adoption and Children Act 2002 is available at <https://www.legislation.gov.uk/ukpga/1989/41/section/31>

⁹ KCSIE, paragraph 356

¹⁰ KCSIE, paragraphs 356 – 358

¹¹ LSCP, Practice Guidance, C7, paragraph 2.3

¹² WTSC, Chapter 2, paragraph 7

organisations (amongst others).¹³ However, in practice, all organisations working with children should take this action.

3.1.5 (a) **Paragraph 71 of KCSIE** states that:

“Schools and colleges should have processes and procedures in place to manage **any** safeguarding concern or allegation (no matter how small), about staff members (including supply staff, volunteers, and contractors).”¹⁴

(b) **Paragraph 72 of KCSIE** states that:

“If staff have a safeguarding concern or an allegation of **harming or posing a risk of harm to children** is made about another member of staff (including supply staff, volunteers, and contractors), then:

- this should be referred to the headteacher or principal,
- where there is a concern/allegation about the headteacher or principal, this should be referred to the chair of governors, chair of the management committee or proprietor of an independent school, and
- in the event of a concern/allegation about the headteacher, where the headteacher is also the sole proprietor of an independent school, or a situation where there is a conflict of interest in reporting the matter to the headteacher, this should be reported directly to the [LADO(s)]. Details of your local LADO should be easily accessible on your local authority’s website.”

(c) **Paragraph 153 of KCSIE** states that:

“Governing bodies and proprietors should ensure there are procedures in place, as described in paragraphs 71 and 72, for staff to report concerns or allegations that **may** meet the harm threshold about staff members (including supply staff, volunteers, and contractors). These should be addressed as set out in Section one of Part four of [KCSIE].”

3.1.6 **Although KCSIE is specifically applicable to schools and colleges in England, it could, as a matter of best practice, be applied to any organisation working with children.**

3.2 Definition: Concern or allegation that does not meet the harm threshold: low-level concern

The term ‘low-level’ concern does not mean that it is insignificant. 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 working with children may have acted in a way that:

- **is inconsistent with an organisation’s staff code of conduct,¹⁵ including inappropriate conduct outside of work; and**
- **does not meet the harm threshold; or is otherwise not serious enough to merit a referral to the LADO.**

3.3 Mechanism for sharing low-level concerns

3.3.1 There is, in KCSIE, a formal mechanism for schools and colleges in England to share, record and respond to concerns or allegations about adults working with children that **do not** meet the harm threshold – ie low-level concerns.¹⁶ The importance of such a mechanism is supported by research and reference to inquiries and serious case reviews.

3.3.2 However, it is possible for any other organisation working with children to introduce a mechanism whereby low-level concerns are shared with the Safeguarding Lead, or with a values champion (initially, and where they have been introduced) – as appropriate to each organisation.

3.3.3 **Again, although KCSIE is specifically applicable to schools and colleges in England, it could, as a matter of best practice, be applied to any organisation working with children.**

3.3.4 **KCSIE** states the following:

“If staff have a safeguarding concern or an allegation about another member of staff (including supply staff, volunteers or contractors) that **does not** meet the harm threshold, then this should be shared in accordance with the school or college low-level concerns policy...” **(Paragraph 73)**

“Governing bodies and proprietors should ensure there are procedures in place as described in paragraph 71 and 73, to manage **any** safeguarding concerns (no matter how small) or allegations that **do not** meet the harm threshold, about staff members (including supply staff, volunteers and contractors). ‘Low-level’ concerns should be addressed as set out in Section two of Part four of [KCSIE].” **(Paragraph 152)**

¹³ Specific statutory duties are placed by Section 11 of the Children Act 2004 on a range of organisations and professionals working with children and families to safeguard and promote the welfare of children. In addition, further safeguarding duties are placed on individual organisations through other statutes, as explained in Chapter 2 of WTSC

¹⁴ KCSIE states (paragraph 355) that these procedures should be consistent with local safeguarding procedures and practice guidance

¹⁵ In some organisations this document is called the ‘staff behaviour policy’ but reference is made to staff code of conduct throughout this guidance

¹⁶ This formal mechanism was first introduced by the Department for Education with effect from September 2021

“As part of their whole school approach to safeguarding, schools and colleges should ensure that they promote an open and transparent culture in which **all** concerns about all adults working in or on behalf of the school or college (including supply teachers, volunteers and contractors) are dealt with promptly and appropriately.” (Paragraph 425)

“Schools and colleges should ensure that their low-level concerns policy contains a procedure for sharing confidentially such concerns which is clear, easy to understand and implement. Whether all low-level concerns are shared initially with the DSL (or a nominated person (such as a values champion)), or with the headteacher/principal is a matter for the school or college to decide.

If the former, then the DSL should inform the headteacher/principal of all the low-level concerns and in a timely fashion according to the nature of each particular low-level concern.

The headteacher/principal should be the ultimate decision maker in respect of all low-level concerns, although it is recognised that depending on the nature of some low-level concerns and/or the role of the DSL in some schools/colleges, the headteacher/principal may wish to consult with the DSL and take a more collaborative decision making approach.” (Paragraph 434)

“Low-level concerns which are shared about supply staff and contractors should be notified to their employers, so that any potential patterns of inappropriate behaviour can be identified.” (Paragraph 435)

“If schools and colleges are in any doubt as to whether the information which has been shared about a member of staff as a low-level concern in fact meets the harm threshold, they should consult with their LADO.” (Paragraph 436)

“Schools and colleges should ensure they create an environment where staff are encouraged and feel confident to self-refer, where, for example, they have found themselves in a situation which could be misinterpreted, might appear compromising to others, and/or on reflection they believe

they have behaved in such a way that they consider falls below the expected professional standards.” (Paragraph 437)

3.3.5 Staff **do not** need to be able to determine in each case whether the behaviour in question constitutes a low-level concern, or if it may meet the harm threshold. Once staff share what they **believe** to be a low-level concern, that determination should be made by the Headteacher/Principal and in consultation with the DSL if/as appropriate, or by the Safeguarding Lead (as explained below at paragraph 8.19).

3.3.6 **Paragraph 400 of KCSIE** states that the following definitions should be used when schools and colleges determine the **outcome** of a concern or allegation that **may meet** the harm threshold: substantiated, malicious, false, unsubstantiated and unfounded. For the avoidance of any potential doubt, **these definitions are not relevant and should not be applied** when determining the outcome of behaviour which is initially shared in the belief that it is a low-level concern, and where it is subsequently determined to be a low-level concern (the process for reaching such determination is set out below at paragraph 8.19).

4. The importance of sharing low-level concerns

“Agencies providing services to children...should ensure that a culture of openness and trust is fostered within the organisation in which staff can share any concerns about the conduct of colleagues and be assured that these will be received in a sensitive manner.”¹⁷

- 4.1 Organisational child sexual abuse is an increasingly well-documented and understood phenomenon.¹⁸ It is rare to find cases where the abuse occurred in the absence of preceding grooming by the offender,¹⁹ and whilst not always,²⁰ it is usually the case that such preparatory conduct was observed and regarded as questionable at the time by others.²¹ It is not of course only children who are groomed but also, as multiple cases demonstrate, the potentially protective adults and systems around them.²²
- 4.2 Often a striking feature is that such conduct was not shared with the relevant person with safeguarding responsibility at the organisation until after substantive abuse was alleged against the offender. In other respects, potentially questionable conduct,

17 Social Services Inspectorate (1994) ‘An Abuse of Trust’, *The Report of the Social Services Inspectorate Investigation into the case of Martin Huston, January 1994*, Belfast, Social Services Inspectorate

18 Kaufman, K., Erooga, M. et. al. (2016) *Risk profiles for institutional child sexual abuse: A literature review*, Royal Commission into Institutional Responses to Child Sexual Abuse, Sydney

19 McAlinden, A-M. (2012) ‘Grooming’ and the Sexual Abuse of Children: Institutional, Internet, and Familial Dimensions, Oxford University Press

20 Eg Scott-Moncrieff, L. and Morris, B. (2015) *Independent investigation into governance arrangements in the paediatric haematology and oncology service at Cambridge University Hospitals NHS Foundation Trust following the Myles Bradbury case*, Cambridge, Cambridge University NHS Foundation Trust (UK)

21 See Appendix A for examples

22 Eg McAlinden, A. M. (2012) ‘Grooming’ and the Sexual Abuse of Children: Institutional, Internet and Familial Dimensions, Oxford, Oxford University Press; *Exploring Sex offender Grooming* (2013) by Jim Tanner, Ph.D. KBSolutions Inc. and Stephen Brake, Ph.D. Stephen Brake Associates, accessed on 31 August, 2023 at <http://www.kbsolutions.com/Grooming.pdf>; Wonnacott, J. and Carmi, E. (2016) *Serious Case Review: Southbank International School*, Hammersmith and Fulham, Kensington & Chelsea and Westminster LSCB; Raynes, B. (2011) *Executive Summary Of Serious Case Review Written About Teacher Mr X*, Hillingdon Local Safeguarding Board; Jones, P. (2016) *Investigation Into Safeguarding Issues At Clifton College Arising From The Prosecution Of X*, Bristol: Clifton College; and East Sussex Safeguarding Children Board (2013) *Serious Case Review: Child G, Brighton*, East Sussex Safeguarding Children Board

even where shared, is consistently shown not to have either been recorded or available for evaluation as part of a history or pattern of behaviour, or not to have been escalated when a pattern of such behaviour emerged.²³

4.3 Common factors in organisational child sexual abuse were considered by Marcus Erooga in a review of 20 serious case reviews relating to such abuse in the UK from 2010 to 2016.²⁴ He found that:

- (a) a factor in 17 cases was a failure of staff and management to understand and implement their safeguarding policies (including around sharing concerns);
- (b) emphasised in 14 reviews was the importance of staff and management understanding the dynamics of organisational abuse (including grooming); and
- (c) a factor identified in 11 cases was the significance of organisational culture to minimise risk.

4.4 Erooga and colleagues' further research with offenders illustrates what organisational offenders can teach organisations about how to prevent abuse and build strong safeguarding cultures.²⁵ Those interviewed for the research had worked in a range of occupational settings (including schools, sports clubs, army and sea cadet organisations, a choir group and education social work), and had sexually offended against children in organisational positions of trust. Whilst not necessarily causal factors, a number reported **work related stressors** (including lack of support and working long hours), as well as **personal issues** (including having been abused themselves as children, recent loss of intimate relationships, questioning their sexual orientation and a history of self-harm/ suicidal thoughts). Some showed patterns of **rule breaking** more generally (including breaches of other rules), in addition to the abuse of children.

4.5 **Grooming behaviours** included direct use of authority to offend, using material or practical benefits for victims, providing support for isolated children, favouring particular children, and use of alcohol, videos or sexual imagery amongst others. The method of commencing the abuse included the **erosion of boundaries**, slow progression to abuse, use of trust and authority, meeting the child's needs (including physical and emotional), and developing relationships with the child's family. Our collective observation is that these concepts are straightforward but that staff do not understand them unless there is training based on real life cases (discussed further at paragraph 6.5(f)).

4.6 The research questions the view that all offenders are preferential, suggesting instead that whilst some are undoubtedly preferential, others may be considered to be opportunistic and some are situational. **Preferential offenders** are those who have a conscious desire to sexually abuse children, and who either do not see, or are not easily deterred, by obstacles. Jimmy Savile is a classic example of a preferential offender. **Opportunistic offenders** are those who abuse because potential victims are available and potentially vulnerable, and the organisational setting either inadvertently facilitates, or fails to prevent, abusive activity. **Situational offenders** are those whose propensity to abuse is previously unknown or unacknowledged, and their offending is specific to the set of organisational factors which potentiates their offending.²⁶

Boundaries

4.7 Based on the earlier research, Erooga elaborates on the concept of a 'slippery slope' of boundary violations towards abuse, and explains that there are many stages on the slippery slope towards the breach of a boundary within a relationship. Sometimes initial infringements are part of a grooming process but at other times they are made innocently and with good intention. However, once boundaries are breached it then becomes more difficult to restore the relationship to one in which proper boundaries are respected.²⁷ Furthermore, Erooga emphasises that organisations should not simply concern themselves with safeguarding boundaries. His research indicates that organisations in which boundaries are adhered to **in every respect** in which staff perform their role are likely to be the safest environments for children.

Specific behaviours

4.8 Tabachnick and Baker's research describes a widely held but erroneous perception that individuals can accurately judge people, or profile a sex offender, and emphasises the need to understand that there is no one profile to describe everyone who abuses a child and the importance, therefore, of a focus instead on specific behaviours.²⁸

4.9 If we educate adults to be informed about, and to identify, inappropriate, problematic or concerning behaviour, rather than think they can recognise dangerous people, they can be prepared to act when they observe behaviour which violates a staff code of conduct. They can, as Tabachnick and Baker explain, then draw attention to "the hundreds

²³ See Appendix A for examples

²⁴ Erooga, M. (2016) *Creating Safer Organisations: Practical implications of research regarding child sexual abuse in youth serving settings*, Pre-conference presentation at the Association for the Treatment of Sexual Abusers (ATSA) 35th Annual Research and Treatment Conference, Orlando, FL., USA

²⁵ Erooga, M., Allnock, D. & Telford, P. (2012) *Sexual Abuse of Children by People in Organisations: What Offenders can Teach Us About Protection* in M. Erooga (ed.) *Creating Safer Organisations: Practical Steps to Prevent the Abuse of Children by Those Working With Them*, John Wiley & Sons, Ltd

²⁶ Erooga, M. (2018) *Thinking Beyond a Single Type of Organisational Sex Offender* in M. Erooga, M. (ed.) *Protecting Children and Adults from Abuse After Savile*, London, Jessica Kingsley Publishers

²⁷ Ibid

²⁸ Tabachnick, J. and Baker, K. (2018) *Engaging the Public through Messaging and Bystander Actions* in M. Erooga, M. (ed.) *Protecting Children and Adults from Abuse After Savile*, London, Jessica Kingsley Publishers

of small comments, harassments, emotional and physical boundary violations, and other signs that may precede [child] sexual abuse” – what may be considered in the broadest sense to be part of a conscious, or an unwitting grooming process.²⁹

- 4.10 In this approach a clear and robust staff code of conduct for the workplace is needed, and there must be a commitment from leadership to adhere to, enforce and reinforce the staff code of conduct and its expectations, and to address any attempt to bypass policies or procedures – regardless of the person in question’s status. Staff should be briefed on the staff code of conduct so that everyone is familiar with it, and clear on the standard of behaviour expected of them. It should be a lived document that is seen to apply to all levels of the organisation. Staff should also be trained on specific behaviour to be aware of, and be encouraged and empowered to share any concerns about behaviour that is not appropriate. Intrinsic to this is discussing, during training, real life examples of the consequences of failing to report.

Action points

“It is not whistleblowing, which is the safety net at the end of the process, but mechanisms that allow the confidence to speak out on a day-to-day basis. How do you create that culture? You need a robust framework, policy, training, support and leadership to facilitate dialogue and instil it.”³⁰

(Sam Monaghan, former Corporate Director Children’s Services, Barnardo’s)

- 4.11 Whether or not all child sex offenders are in fact preferential, there are several recommended actions that flow from Erooga and colleagues’ research,³¹ and that organisations can take to minimise the risk of situational offending. They include:

- (a) reducing the opportunity and acceptability of inappropriate, problematic or concerning behaviour;
- (b) increasing the effort required to offend;
- (c) increasing the risk and perception of the risk of detection;
- (d) ensuring there are robust and effective staff support systems in place;
- (e) not over-relying on DBS or overseas criminal records checks – they are essential (where roles require them, and as a matter of compliance) but are not a ‘silver bullet’. An unblemished DBS check

simply confirms that an individual has not been discovered to present a risk to children; it is not predictive about potential risk. Research shows that the majority of organisational child sex offenders did not have a previous criminal record at the time they offended, although they may subsequently be found to have had numerous previous victims;³²

- (f) the powerful effect of organisational culture – and the importance of clarity and congruence about values and expectations. As the Health & Safety Executive states, culture can best be described as “the way we do things around here.”³³ What is important is creating a robust, holistic safeguarding culture that everyone endorses and is committed to. As one headteacher commented, “It is about building a culture of what is and isn’t acceptable here. What are we about as a school? What is the staff room like and is everyone buying into that?” Culture forms the context within which people judge the appropriateness of their behaviour. An organisation’s culture will influence human behaviour and human performance at work, and it is vital to recognise the danger of cultural slippage. A staff code of conduct which is understood, accepted and followed by all adults associated with the organisation is integral to this, and strong governance and leadership are vital.

- 4.12 In addition, all organisations can benefit from using the Guidance for safer working practice for those working with children and young people in education settings (**GSWP**) (the updated version of which was published in February 2022), which is used by many local authorities and schools as a reference point for identifying low-level concerns and informing their own staff code of conduct.³⁴ **Although created for schools and education settings, the principles are applicable across all sectors, and as guidance it is held in high regard by professionals within the safeguarding field.**

5. What can we learn from serious case reviews?

“...I would like to stress that our review has highlighted the overwhelming importance of two things for organisations in protecting children – a culture of openness, including a willingness to recognise and accept that abuse could happen in any organisation and a robust structure to support the effective reporting and handling of concerns about behaviour.”³⁵

(Dame Moira Gibb)

29 Ibid, p.173

30 Sam Monaghan, former Corporate Director Children’s Services, Barnardo’s, quoted in Charity Finance (April 2016) *Safe Keeping: the implications of historic child sexual abuse allegations*

31 Erooga, M., Allnock, D. & Telford, P. (2012) *Sexual Abuse of Children by People in Organisations: What Offenders can Teach Us About Protection* in M. Erooga (ed.) *Creating Safer Organisations: Practical Steps to Prevent the Abuse of Children by Those Working With Them*, John Wiley & Sons, Ltd

32 Leclerc, B., & Cale, J. (2015). Adult sex offenders in youth-oriented organisations: evidence on sexual victimisation experiences of offenders and their offending patterns. *Trends and Issues in Crime and Criminal Justice*

33 Health and Safety Executive (2019) *Organisational culture*, accessed on 31 August, 2023 at <http://www.hse.gov.uk/humanfactors/topics/culture.htm>

34 GSWP, accessed on 31 August, 2023 at <https://www.saferrecruitmentconsortium.org/>

35 Wonnacott, J. and Carmi, E. (2016) *Serious Case Review: Southbank International School*, Hammersmith and Fulham, Kensington & Chelsea and Westminster LSCB, p.4

- 5.1 The importance of educating staff to understand and identify behaviour which is contrary to the staff code of conduct is illustrated by the table at [Appendix A](#), which draws together the key features of 15 cases of organisational child sexual abuse.³⁶
- 5.2 In the cases of teachers William Vahey and Nigel Leat (further details of which can be found in [Appendix A](#)), a number of staff, parents and pupils discussed concerns with each other or a member of the senior management team. A number of these concerns, taken in isolation, were not treated by the teachers' respective schools as meeting the threshold for reporting to the LADO at the time. For example, Vahey "undermined other staff and was disrespectful to junior staff," and "gave out chocolates and sweets in class [and] cookies linked to games during evening activities."³⁷ Leat "had favourite pupils within his class [who were] invariably girls, and were variously described by staff members as pupils who were less academically able, emotionally needy or vulnerable and pretty;" "had been taking photographs of children using his mobile phone," and "getting changed for PE in his class [which was] used as a thoroughfare by staff and pupils."³⁸
- 5.3 Many concerns were not shared with anyone. In the case of Leat, only 11 of the 30 recorded incidents were shared with the school management. All staff interviewed for the Serious Case Review said that it was common knowledge amongst school staff that Leat allowed pupils to be over familiar with him, and "spoke to and joked with his pupils in a manner which was inappropriate to his role." As the Serious Case Review explains, staff were sufficiently concerned about Leat's behaviour to attempt to ensure that pupils identified as likely favourites of his were allocated to other classes on the basis that remaining in Leat's class might be emotionally harmful to them. However, these staff did not share all their concerns with the school child protection officer or Headteacher at the time. Of those which were shared with the Headteacher (who was subsequently prohibited from teaching for life for failing to act appropriately in relation to concerns), he neither acted upon them nor identified a pattern of inappropriate behaviour.
- 5.4 Neither school had a formal mechanism for sharing, recording or handling low-level concerns. As a result, when they were shared, the concerns were shared with different people and each concern was dealt with in isolation. No one person was aware of all of the concerns, and no-one was therefore able to 'join the dots,' and identify a pattern of inappropriate behaviour. Concerns, therefore, were either dismissed as insignificant or misinterpreted or, where they were investigated, they were viewed as isolated incidents, and Vahey's and Leat's explanations were accepted.
- 5.5 These and numerous other cases, including those in the table at [Appendix A](#), illustrate the importance of sharing, recording and handling low-level concerns, so that potential patterns of inappropriate, problematic or concerning behaviour can be identified as soon as possible, and appropriate action can be taken swiftly in response.
- ## 6. Designing, implementing and embedding a written low-level concerns policy – initial points to consider
- 6.1 Some organisations may feel that they already take an approach to sharing low-level concerns, which they would not want to formalise with a written policy. As explained below, KCSIE states that schools and colleges in England should have such a policy in place. However, we recommend that all organisations follow KCSIE and introduce a written low-level concerns policy, as it should empower staff to feel that they are abiding by the policy by sharing any such concerns. In addition, an 'approach' can be a very difficult thing to monitor and runs the risk of 'drift.' This is a particular challenge in, for example, a national organisation, where it is especially important to introduce principles to minimise the risk of one part of the organisation gradually slipping away from what was agreed to be the right approach by the organisation as a whole.
- 6.2 A written policy should form part of an existing staff code of conduct and/or safeguarding policy. KCSIE states that, as good practice, governors and proprietors should set out their low-level concerns policy within their staff code of conduct and safeguarding and child protection policies.³⁹ KCSIE is not prescriptive in this regard, and it will be a matter for each school and college in England to decide which option is most appropriate for them. For all organisations, where the actual low-level concerns policy is, for example, included in the staff code of conduct, cross-reference to the policy should also be made in the safeguarding policy (and any key details which may be considered appropriate from the low-level concerns policy included within it), and vice-versa. The low-level concerns policy should be as simple and clear as possible, and include an introduction to the concept and the importance of sharing low-level concerns, an explanation of what the policy is, what its purpose is and what its aims are. A question and answer format, as set out in paragraphs 8 to 13 below can be a helpful way of presenting this and the additional suggested information.

³⁶ It is important to note that inappropriate, problematic or concerning behaviour with respect to children is not limited to sexual behaviour, and low-level concerns can of course apply in other behavioural contexts, eg emotional and/or physical

³⁷ Wonnacott, J. and Carmi. E. (2016) *Serious Case Review: Southbank International School, Hammersmith and Fulham, Kensington & Chelsea and Westminster LSCB*

³⁸ North Somerset Safeguarding Children Board (2012) *Serious Case Review: The Sexual Abuse of Pupils in a First School Overview Report*, Weston-Super-Mare, NSSCB

³⁹ See KCSIE paragraph 431. KCSIE also states at paragraph 432, that "As set out in Part two...the governing body or proprietor should ensure their staff code of conduct, behaviour policies and safeguarding policies and procedures are implemented effectively, and ensure that appropriate action is taken in a timely manner to safeguard children and facilitate a whole school or college approach to dealing with any concerns"

6.3 The way in which a low-level concerns policy is implemented is key. Organisation leaders must ensure that their focus is on **designing a policy which is tailored to their specific organisation and implementing it in a way which will achieve ‘buy in’ from all staff**. Equally, they should recognise that leaders play a key role in communicating the assumptions, values, beliefs, and norms they expect members of their organisation to exhibit.⁴⁰ Simply put, if leadership is not seen to adhere to and model the expected values and behaviour of the organisation, a written low-level concerns policy is unlikely to be effective.⁴¹

6.4 If the time is not taken to do this then organisations risk inadvertently creating suspicion, confusion and mistrust which could be highly damaging to their culture and result in decreased, rather than increased, sharing of concerns.

6.5 **To design, implement and embed a low-level concerns policy in a positive and effective way, organisations should:**

- (a) consider how each of the questions set out below should be addressed;
- (b) carefully consider their use of terminology, including how they name their policy. Some organisations have adopted the term ‘low-level concerns’ policy, whereas others have chosen ‘neutral notification.’ KCSIE uses the term ‘low-level concerns’ (and, as above, schools and colleges in England should set out their low-level concerns policy within their staff code of conduct and safeguarding and child protection policies). We strongly recommend that other organisations adopt the same terminology;
- (c) engage and consult with all staff from the outset, so that they can be involved in shaping the policy;
- (d) engage with trade union or professional association representatives where relevant, particularly where an organisation recognises a union and/or where their staff are members of one or more unions. Such engagement can improve the quality and appropriateness of the policy, increase staff and union ‘buy-in’ and ensure that any complex issues are dealt with and resolved at the outset, before the policy is implemented. Such engagement was essential in the drafting of the original version of GSWP;
- (e) draw on the GSWP (February 2022, and previous versions), and the staff code of conduct;
- (f) deliver – at the outset and on an ongoing basis – high quality and appropriately pitched training

to all staff on (i) the themes of this guidance and, crucially, how organisational based grooming occurs – including on real life cases and with scenario-based discussions, and (ii) the low-level concerns policy – including how concerns should be shared, recorded and responded to. The cases contained in [Appendix A](#), and the Safe Working Practice training resource prepared by the Safer Recruitment Consortium, may be helpful, in this regard,⁴² as well as the examples of low-level concerns detailed in [Appendix B](#), which are intended to illustrate the boundaries between concerns or allegations that may meet the harm threshold, and concerns or allegations that do not meet the harm threshold. Effective training is of paramount importance as a key component in the successful implementation of a low-level concerns policy, and can be delivered in a session of one to two hours: understanding promotes acceptance and engagement.

In addition, **KCSIE** states that “Governing bodies and proprietors should ensure that **all** governors and trustees receive appropriate safeguarding and child protection (including online) training at induction. This training should equip them with the knowledge to provide strategic challenge to test and assure themselves that the safeguarding policies and procedures in place in schools and colleges are effective and support the delivery of a robust whole school approach to safeguarding. Their training should be updated regularly”,⁴³

- (g) incorporate a briefing about the policy into the induction process for new staff;
- (h) provide staff with regular opportunities to discuss the policy and provide feedback including on what is regarded as working well, what would helpfully be modified, and what they may have concerns about, and ideally set up a working group to provide input to the senior leadership team, on an ongoing basis, to ensure that the low-level concerns policy continues to be appropriately tailored to the organisation, and that it is effectively implemented and embedded within it;
- (i) arrange for a comprehensive review of the policy’s implementation after a period (for example, 12 or 18 months) – to measure its impact, and identify and remedy any potential unintended consequences and/or inconsistencies between the policy’s stated aims and its implementation in practice; and

40 Schein, E. H. (1985) *Organizational Culture and Leadership*, San Francisco, CA: Jossey-Bass Publishers

41 For further discussion of the role of leadership see: Erooga, M. (2019) *A clear lead: Why charity leaders must create a safeguarding culture*, Civil Society, March

42 Safer Recruitment Consortium, *Safe Working Practice Resource*, accessed on 31 August, 2023 at <http://www.saferrecruitmentconsortium.org/>

43 KCSIE, paragraph 81

- (j) separate from this review, the Headteacher/Principal or Safeguarding Lead should consult with staff on a regular basis so that any significant issues can be remedied immediately. The Governance Body should also be provided with regular updates.

7. Do any issues under data protection law arise?

- 7.1 The Data Protection Act 2018 (**DPA 2018**) includes a specific provision which permits organisations to process even the most sensitive personal data where it is necessary for the purposes of protecting children from harm.⁴⁴ For schools and colleges in England, it is clear, from KCSIE, that low-level concerns recording will meet the relevant threshold of necessity. For other organisations with safeguarding responsibilities, support for the necessity of low-level concerns recording may be found in inquiries and serious case reviews that have identified the importance of raising, sharing and logging this type of information (as well as by analogy with the requirements on schools and colleges in KCSIE).
- 7.2 Although data protection law is therefore not a barrier to a low-level concerns policy, it is still an important factor to consider. Issues arise in respect of giving references to other organisations, setting retention periods, and dealing with data subject requests for access, correction or erasure of their records. The issue of subject access is a common concern for organisations and as such considered immediately below, but all these topics are dealt with in more detail in [Appendix D](#).

Rights of access

- 7.3 Historically, some organisations have been hesitant to introduce low-level concerns recording owing to fears around **data subject access requests**. However, the risk of receiving such requests should not be a deterrent to implementing good safeguarding practice, and low-level concerns are no different in this regard from keeping any form of safeguarding record.
- 7.4 KCSIE rightly flags the exemption to the right of access where there is a risk of serious harm,⁴⁵ and other exemptions (notably third party privacy rights and, in the case of parental requests, the child's best interests) will likely be applicable too. However, and contrary to common belief, there is no stand-alone 'safeguarding' exemption that trumps the subject access right. Nor, on balance, is there a clear or overriding case that there should be. Both 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.

- 7.5 The existence of the right of access should be seen as part of a system of checks and balances: one that promotes fair, accurate and neutral recording of low-level concerns. It also demonstrates the value of getting broader staff 'buy-in' to such a policy. Headteachers/Principals/DSLs, or Safeguarding Leads, tasked with making these records should be mindful that adults about whom low-level concern(s) have been raised may have rights of access to them, provided of course that this would not also unreasonably disclose information of children. However, data controller organisations will be able to prefer children's privacy rights over the access rights of adults if there is any tension created by a subject access request.
- 7.6 It will assist good practice for Headteachers/Principals/DSLs, or Safeguarding Leads, to bear in mind the principles of subject access when recording low-level concerns about adults. If any specific child may be identifiable from the low-level concerns record – even if their name is omitted or redacted – then it is likely to be inappropriate to share this record with the adult in question following a subject access request. This can create issues of trust and transparency with staff about whom a low-level concern has been raised. Such issues of 'mixed data' are not unique to low-level concerns recording, but are nonetheless relevant considerations in terms of how records are made. Of course the primary considerations should always be the accuracy and safeguarding value of the record.
- 7.7 Staff must be fully notified of the low-level concerns policy and of its purpose, partly for its proper implementation but also under the data protection principles of fairness and transparency. As a general rule, if the policy is being applied correctly, staff should not be in the dark about either the existence or the nature of a low-level concern about them. Reference to a low-level concerns policy should be made in any **privacy notice** applicable to staff, and they should understand how long the record will be kept (and why).

8. Other specific questions to address when designing, implementing and embedding a low-level concerns policy

What is a low-level concerns policy?

- 8.1 It is a policy which enables all staff to share any concerns – **no matter how small** – about their own or another member of staff's behaviour with the relevant individual(s) stipulated within their organisation's policy (see further below). Safeguarding and promoting the welfare of children is everyone's responsibility.

⁴⁴ DPA (2018), paragraph 18 of Part 2 of Schedule 1: the processing is necessary for the purposes of protecting an individual [under 18] from neglect or physical, mental or emotional harm, or protecting the physical, mental or emotional well-being of an individual [under 18]

⁴⁵ KCSIE, last bullet point of paragraph 119

- 8.2 The **purpose** of the policy is to create and embed a culture of openness, trust and transparency in which the clear values and expected behaviour which are set out in the staff code of conduct are constantly lived, monitored and reinforced by all staff.
- 8.3 In order to achieve this purpose, organisations should:
- (a) ensure that staff are clear about what appropriate behaviour is, and are confident in distinguishing expected and appropriate behaviour from inappropriate, problematic or concerning behaviour – in themselves and others, and the delineation of professional boundaries and reporting lines;
 - (b) empower staff to share any low-level concerns with the relevant individual(s) stipulated within their organisation’s policy (see further below), **and to help all staff to interpret the sharing of such concerns as a neutral act**;
 - (c) address unprofessional behaviour and support the individual to correct it at an early stage;
 - (d) identify inappropriate, problematic or concerning behaviour – including any patterns – that may need to be consulted upon with (on a no-names basis if appropriate), or referred to, the LADO;
 - (e) provide for responsive, sensitive and proportionate handling of such concerns when they are raised; and
 - (f) help identify any weaknesses in the organisation’s safeguarding system.

Definitions

- 8.4 The policy should clearly define who it applies to – ie all ‘staff’ (as stated on [page 2](#)), and any individuals with a significant role to perform in the context of sharing low-level concerns – ie Headteacher/Principal/DSL, Safeguarding Lead, and (if appropriate) any nominated individuals (such as values champions); and should include the definition of a concern or allegation that **may** meet the harm threshold, and a concern or allegation that **does not** meet the harm threshold – ie low-level concern (as stated on [pages 3 and 4](#) above) – to provide a clear distinction between these for staff. Some organisations may also find it helpful to explain the position via a traffic light system, as set out in [Appendix C](#).
- 8.5 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 the behaviour in question constitutes a low-level concern, or if it may meet the harm threshold. As explained below, once

staff share what they **believe** to be a low-level concern, that determination should be made by the Headteacher/Principal and in consultation with the DSL if/as appropriate, or by the Safeguarding Lead.

Who should staff share low-level concerns with?

- 8.6 It is critical that all low-level concerns are ultimately received by the Headteacher/Principal or Safeguarding Lead. Having one recipient of all such concerns should allow any potential patterns of inappropriate, problematic or concerning behaviour to be identified, and ensure that no information is possibly lost.
- 8.7 It is important that low-level concerns are shared initially with the relevant individual(s) stipulated within an organisation’s low-level concerns policy – ie (i) in the case of a school or college in England – the DSL, or a nominated individual (such as a values champion), or the Headteacher/Principal, or (ii) in the case of other organisations – the Safeguarding Lead, or a nominated person (such as a values champion) – as soon as reasonably possible and, in any event, within 24 hours of becoming aware of it (where the concern relates to a particular incident) – although it should also be emphasised that it is never too late to share a low-level concern.
- 8.8 If the stipulated initial recipient of low-level concerns is the DSL or Headteacher/Principal, or Safeguarding Lead, and they are absent for any reason, low-level concerns should be shared with a clearly identified ‘deputy,’ who should ensure that they inform the DSL or Headteacher/Principal, or Safeguarding Lead, immediately on their return.
- 8.9 As highlighted above, as an alternative option to sharing low-level concerns initially with the DSL or Headteacher/Principal, or Safeguarding Lead, staff could share any low-level concerns initially with nominated individuals from across their organisation. Where this system is introduced – whether in a school or college in England, or in any other organisation – any such nominated individuals (such as values champions) should be specially selected, trained and championed.⁴⁶ We believe that if implemented properly, this role has real potential value by helping to avoid the sharing of low-level concerns as possibly being seen as a ‘top down’ initiative. It should be emphasised that we understand that a key part of an organisation’s success where they have introduced such a role is that it is truly ‘cross-grade’, and is not about having a range of senior figures in this role – people at all levels of the organisation should be sought. Staff could be encouraged to share – within the same timeframe stipulated above – any low-level concern with a nominated individual, if that is who they feel most comfortable talking to. If such a system is introduced, then in order to

⁴⁶ Further information can be found in the case study on Wellington College at Appendix G

minimise the potential risk of information being lost or mistranslated, the careful selection and appropriate training of nominated individuals will be essential – to ensure that any low-level concerns shared with them are appropriately responded to, recorded and immediately passed on to the DSL or Headteacher/Principal – in accordance with the particular school’s or college’s low-level concerns policy, or to the Safeguarding Lead in other organisations. As above, and in accordance with KCSIE, where a DSL receives any low-level concern – whether directly initially or from nominated individuals, they should inform the Headteacher/Principal of all the low-level concerns and in a timely fashion according to the nature of each particular low-level concern. Similarly, this system must be made as clear as possible to staff by the organisation during consultation, briefing and/or training on its low-level concerns policy.

Should staff who share concerns be able to remain anonymous?

- 8.10 If the staff member who raises the concern does not wish to be named, then the organisation should respect that person’s wishes as far as possible.
- 8.11 However, there may be circumstances where the staff member who raises the concern will need to be named (for example, where it is necessary in order to carry out a fair disciplinary process) and, for this reason, anonymity should never be promised to members of staff who share low-level concerns. Where possible, organisations should try to encourage staff to consent to be named, as this will help to create a culture of openness and transparency.

Should staff share concerns about themselves (ie self-report)?

- 8.12 Occasionally a member of staff may find themselves in a situation which could be misinterpreted, or might appear compromising to others. Staff should, wherever possible, proactively self-report – for example, if they know they are going to be in a situation which would be deemed a breach of the staff code of conduct, including, for example, where a member of staff (i) has a child who is a student in the school – they may have the mobile phone number of their child’s friend, (ii) plays in an external sports team with a current student and they may be on a WhatsApp group with them, and (iii) is having to drive a student somewhere – for example for an urgent medical appointment.
- 8.13 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.

- 8.14 Self-reporting in these circumstances can be positive for a number of reasons: (i) it is self-protective, in that it enables a potentially difficult issue to be addressed at the earliest opportunity; (ii) 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, (iii) crucially, it is an important means of maintaining a culture where everyone aspires to the highest standards of conduct and behaviour. KCSIE states that schools and colleges should ensure that they create an environment where staff are encouraged and feel confident to self-refer.

How should low-level concerns be shared and recorded?

- 8.15 Staff should be given the option of sharing their low-level concern verbally with the relevant individual(s) stipulated within their organisation’s low-level concerns policy in the first instance, or of providing them with a written summary of it. Organisations may wish to provide staff with the option of completing a simple low-level concerns form, an example of which is appended at [Appendix E](#).⁴⁷
- 8.16 Where the low-level concern is provided verbally, the recipient of it should make an appropriate record of the conversation, either contemporaneously or immediately following the discussion.
- 8.17 Sound professional judgement should be exercised by them in determining what information is necessary to record for safeguarding purposes. 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 the organisation 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.

When staff share what they believe to be a low-level concern, how should this be responded to by the Headteacher/Principal or Safeguarding Lead?⁴⁸

- 8.18 All low-level concerns should be responded to in a sensitive and proportionate way – on the one hand demonstrating that such concerns when raised will be handled promptly and effectively whilst, on the other hand, protecting staff from any potential false low-level concerns or misunderstandings.

⁴⁷ When using this form, which is an example only, please refer to paragraph 7.6 above in terms of considerations as to naming other individuals. Additionally, paragraph 53 of Appendix D raises certain considerations around anonymity and data security when low-level concerns are shared by means of a standard form

⁴⁸ Schools and colleges will also be mindful here of paragraph 434 of KCSIE where it states that “...The headteacher/principal should be the ultimate decision maker in respect of all low-level concerns, although it is recognised that depending on the nature of some low-level concerns and/or the role of the DSL in some schools/colleges, the headteacher/principal may wish to consult with the DSL and take more collaborative decision making approach”

8.19 Once the Headteacher/Principal or Safeguarding Lead has received what is believed (by the person raising it) to be a low-level concern, they should (not necessarily in the below order but in an appropriate sequence according to the nature and detail of the particular concern shared with them):

- (a) 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;
- (b) speak to any potential witnesses (unless advised not to do so by the LADO/other relevant external agencies, where they have been contacted);
- (c) 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);
- (d) review the information and determine whether:
 - (i) the behaviour is in fact **appropriate** – ie entirely consistent with their staff code of conduct and the law,
 - (ii) the behaviour constitutes a **low-level concern** (see paragraph 3.2 above),
 - (iii) there is **any doubt** as to whether the information which has been shared about a member of staff as a low-level concern in fact may meet the harm threshold, in which case they should consult with their LADO,
 - (iv) **in and of itself the behaviour may meet the harm threshold**, and should be referred to the LADO/other relevant external agencies, or
 - (v) **when considered with any other low-level concerns that have previously been shared about the same individual, the behaviour may meet the harm threshold**, and should be referred to the LADO/other relevant external agencies,
- (e) make appropriate records 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 (subject to the above);
 - 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 determination (as above at 8.19(d));

- the rationale for their decision; and
- any action taken.

8.20 The Headteacher/Principal's or Safeguarding Lead's approach (including following any consultation with the LADO, as above, where action (if/as necessary) should be taken in accordance with their advice) should also be informed by the following:

8.20.1 **If it is determined that the behaviour is entirely consistent with the organisation's staff code of conduct and the law:**

- (a) it will still be important for the Headteacher/Principal or Safeguarding Lead to update the individual in question and inform them of the action taken as above;
- (b) in addition, the Headteacher/Principal or Safeguarding Lead should 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 organisation's staff code of conduct and the law;
- (c) such a situation may indicate that:
 - the staff code of conduct is not clear;
 - the briefing and/or training has not been satisfactory; and/or
 - the low-level concerns policy is not clear enough.

If the same or a similar low-level concern is subsequently shared by the same individual, and the behaviour in question is also consistent with the staff code of conduct, then an issue may need to be addressed about how the subject of the concern's behaviour is being perceived, if not about the behaviour itself, and/or the organisation may need to look at the implementation of its low-level concerns policy.

8.20.2 **If it is determined that the behaviour constitutes a low-level concern:**

- (a) any investigation of low-level concerns should be done discreetly and on a need-to-know basis;
- (b) 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;

- (c) in many cases, a low-level concern will simply require a conversation with the individual about whom the concern has been raised. It has long been understood that lasting change in behaviour is least likely to be achieved by an approach experienced as critical or threatening (Miller & Rollnick, 1991);⁴⁹
- (d) what Erooga has described in presentations as a 'values-based conversation' is more likely to be effective, and help maintain a positive professional relationship with the member of staff concerned. Such an approach is characterised by a spirit of genuine enquiry. For example, "I am sure you subscribe to our organisational values, so help me understand how you came to behave in a way which is not in keeping with those, so that we can understand what actions or support you might need so that we can both be confident that it will not happen again...;"
- (e) any such conversation should include being clear with the individual as to why their behaviour is inappropriate, problematic or concerning, 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;
- (f) some low-level concerns may also raise issues of misconduct or poor performance which are unrelated to safeguarding. The Headteacher/Principal or Safeguarding Lead should also consider whether this

is the case – by referring to the organisation's disciplinary and/or capability procedure and taking advice from HR on a named or no-names basis where necessary. If the Headteacher/Principal or Safeguarding Lead considers that the organisation's disciplinary or capability procedure may be triggered by the low-level concern(s) shared, they should refer the matter to HR. Any such referral should be made by the Headteacher/Principal or Safeguarding Lead having received the low-level concern and not by individual staff members. Equally, it is essential that there is close liaison and appropriate information sharing between the Headteacher/Principal or Safeguarding Lead and HR, so that an holistic view of the individual can be taken. Where a low-level concern does not raise misconduct or poor performance issues, it will not be a matter for HR;

- (g) as explained earlier in this guidance, an organisation's written low-level concerns policy should apply to **any** adult working in or on behalf of the organisation – so that low-level concerns can be self-reported by and/or shared about them. KCSIE states that where a low-level concern relates to a person employed by a supply agency or a contractor, that concern should be notified to their employers, so that any potential patterns of inappropriate behaviour can be identified.

How an organisation responds to a low-level concern may be different depending on the employment status of the individual who is the subject of the concern – ie whether they are an employee, or worker to whom the organisation's disciplinary procedure would apply; or a contractor, Governor, Trustee, Director or volunteer who may be subject to alternative procedures. The organisation's response will need to be tailored accordingly, in respect of which they may wish to seek specialist legal advice;

⁴⁹ Miller, W. R. and Rollnick, S. (1991) *Motivational interviewing: Preparing people to change addictive behaviour*, New York: Guilford Press

- (h) where low-level concerns do trigger the organisation's disciplinary, capability, grievance, whistleblowing or other procedures, these procedures should be followed where appropriate. Where low-level concerns are raised which engage other procedures, it is sometimes difficult to determine how best to investigate the concern and which procedure to follow. Organisations should exercise their professional judgement and, if in any doubt, they should seek advice from HR and other relevant external agencies including the LADO;
- (i) if HR advise that the organisation's disciplinary procedure is triggered, the organisation must ensure that the individual has a full opportunity to respond to any factual allegations which form the basis of a disciplinary case against them. If an organisation ultimately disciplines or dismisses a staff member for cumulative alleged 'breaches' of the staff code of conduct which were shared and dealt with as low-level concerns but not brought contemporaneously to the individual's attention, and to which they have not had a proper opportunity to respond, clearly there will be a lack of fairness and natural justice and the risk of a finding of unfair dismissal by an Employment Tribunal.

Staff therefore need to be trained to understand that when they share what they believe to be a low-level concern, the Headteacher/Principal or Safeguarding Lead will speak to the adult who is the subject of that concern – no matter how 'low' level the concern may be perceived to be, to gain the subject's account – and to make appropriate records (see paragraphs 8.15 to 8.17 above), which may need to be referenced in any subsequent disciplinary proceedings.

8.20.3 If it is determined that the behaviour (i) in and of itself may meet the harm threshold, or (ii) when considered with any other low-level concerns that have previously been shared about the same individual, may meet the harm threshold:

- (a) it should be referred to the LADO/ other relevant external agencies, and in accordance with the organisation's safeguarding policy

or, if separate, managing allegations against staff policy, and Part 4 of KCSIE (which, whilst applicable to schools and colleges in England, also constitutes best practice for other organisations);

- (b) all organisations (including schools and colleges in England) are, in any event, required to comply – in all matters relating to safeguarding – with the relevant procedures and practice guidance stipulated by their Local Safeguarding Partnership.

9. How should low-level concerns be held?

- 9.1 Whereas KCSIE is prescriptive regarding record keeping with respect to concerns or allegations that may meet the harm threshold, as explained further below (see paragraph 11.1), it is not prescriptive on the storing of records relating to low-level concerns but does offer some guidance.
- 9.2 Organisations should retain all records of low-level concerns (including those which are subsequently deemed by the Headteacher/Principal or Safeguarding Lead to relate to behaviour which is entirely consistent with the staff code of conduct) in a central low-level concerns file (either electronic or hard copy). Where multiple low-level concerns have been shared regarding the same individual these should be kept in chronological order as a running record, and with a timeline alongside (an example of which is appended at [Appendix F](#)). These records should be kept confidential and held securely, with access afforded only to a limited number of individuals such as the Headteacher/Principal/DSL or Safeguarding Lead, and the individual they report to; and Senior HR Officer, and the individual they report to (eg Head of HR).
- 9.3 The Headteacher/Principal or Safeguarding Lead may store the central low-level concerns file with the other safeguarding and child protection records. The rationale for storing such records on a central file, rather than in staff members' personnel files, is that (a) it makes it easier to (i) address possible issues referred to at paragraph 8.20.1(c), and (ii) review the file and spot any potential patterns of inappropriate, problematic or concerning behaviour; and (b) it reassures staff and encourages them to share low-level concerns.
- 9.4 Some low-level concerns may also involve issues of misconduct or poor performance, and may trigger an organisation's disciplinary, capability, grievance, whistleblowing or other procedures. Where these issues would ordinarily require records to be made and retained on the staff member's personnel file, this should be done in the normal way, in addition to the records of the low-level concern(s) being retained in a central low-level concerns file.

9.5 There may be circumstances where a low-level concern (or group of concerns) requires reclassification following determination by the Headteacher/Principal or Safeguarding Lead, and/or recording on the relevant staff member's personnel file. In such case, we still consider it vitally important to retain the low-level concern(s) (as originally shared) on the central low-level concerns file, as well as on the personnel file. That is because the value of a central low-level concerns file risks being diluted if potentially significant contextual information is removed, or divided across two separate files.

9.6 Specifically, if a referral is made to the LADO/other external agencies where the behaviour in question:

- (i) in and of itself may meet the harm threshold; or
- (ii) when considered with any other low-level concerns that have previously been shared about the same individual may meet the harm threshold

then records relating to the behaviour should be placed and retained on the staff member's personnel file, whilst also being retained on the central low-level concerns file. In the case of (i), a duplicate of **all** previous records of low-level concerns relating to the same individual from the central low-level concerns file should be placed in the staff member's personnel file. Material on the personnel file should be retained in accordance with paragraph 415 of KCSIE – which requires schools and colleges in England to produce a clear and comprehensive summary of all concerns and allegations that may meet the harm threshold (except those where the outcome is 'malicious' or 'false'), details of how the concern/allegation was followed up and resolved, a note of any action taken and decisions reached and the outcome, to be kept on the confidential personnel file of the staff member, and a copy provided to them where agreed by local authority children's social care or the police, and a declaration on whether the information will be referred to in any future reference.⁵⁰

10. Should the central low-level concerns file be reviewed?

10.1 The Headteacher/Principal or Safeguarding Lead should review the central low-level concerns file periodically to ensure that all such concerns are being dealt with promptly and appropriately, and that any potential patterns of inappropriate, problematic or concerning behaviour are identified. A record of these reviews should be made. Paragraph 440 of KCSIE states that "Consideration should also be given to whether there are wider cultural issues within the school or college that enabled the behaviour to occur and where appropriate policies

could be revised, or extra training delivered to minimise the risk of it happening again."

11. Where should records of a low-level concern be kept and for how long?

11.1 Our recommendation (for reasons considered further at paragraph 9.2 above, and also at paragraph 30 of [Appendix D](#)) is to keep low-level concerns on a separate, central low-level concerns file. This could be a dedicated, access-controlled software platform within a secure records management system (for example Confide). KCSIE is not prescriptive on the storing of records relating to low-level concerns, but offers some guidance.⁵¹ It states that schools and colleges in England can decide **where** these records are kept, but they must be kept confidential, held securely (ie there should be role-based access restrictions) and comply with the DPA 2018 and the UK GDPR. That legislation, similarly, does not prescribe specific retention periods, but requires a purpose-based approach.

11.2 KCSIE also states that it is for schools and colleges to decide how long they retain records of low-level concerns, but recommends that they are retained at least until the individual leaves their employment.⁵² 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 a decision made on that basis as to whether it is necessary to keep.

11.3 In most cases, a standard retention period in line with usual personnel records (ie six or seven years following the end of employment) is likely to be both lawful and practical for records of low-level concerns. If there is a clear safeguarding purpose for retaining specific information, then – in line with other records of safeguarding value – such information should be retained for the longer term; similarly, longer-term retention is also justifiable (and to be recommended) where a record may be necessary to keep in connection with an employment claim, or a claim brought by a pupil. However, as KCSIE makes clear, such retention periods are for the data controller (school or college) to determine in accordance with their needs – subject to KCSIE's recommendation (ie at least for the term of employment).

11.4 The right to retain personal data is subject to the rights of individuals to object to, or seek to erase or correct, records about them under data protection law, which is dealt with further in [Appendix D](#). Some organisations may be using software which can make it difficult to permanently erase records, and it is recommended in such cases to speak to the provider

⁵⁰ Paragraph 416 of KCSIE states, with respect to concerns or allegations that may meet the harm threshold, that "Details of [concerns] or allegations following an investigation that are found to have been malicious or false should be removed from personnel records, unless the individual gives their consent for retention of the information"

⁵¹ See KCSIE, paragraph 438. Nor is KCSIE prescriptive about document retention generally, other than in respect of DBS records (in Part three: Safer Recruitment). However, it does refer out to the ICO's [Employment Practices Code](#) and [supplementary guidance](#), which pre-dates the DPA 2018/UK GDPR (and an ICO consultation to replace these resources closed in January 2023)

⁵² KCSIE, paragraph 441

about available options.⁵³ One such option may be anonymisation. It may, for example, be of analytical or statistical value to retain records of low-level concerns reporting longer term for the purpose of detecting patterns and trends, but in such cases it may not be necessary (or lawful) to keep such records in a form where any individual may be identifiable.

12. Should a low-level concern be referred to in a reference?

12.1 **Paragraph 442 of KCSIE** states that: “Part three of [KCSIE] is clear that schools and colleges should only provide substantiated safeguarding concerns/allegations (including a group of low-level concerns about the same individual) that meet the harm threshold in references. Low-level concerns 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. It follows that a low-level concern which relates exclusively to safeguarding (and not to misconduct or poor performance) should not be referred to in a reference.”

12.2 Although not required to do so, other organisations may wish to follow KCSIE as a matter of best practice. In our experience, this approach has been important in ensuring an open and transparent culture with staff. However, if other organisations choose not to follow KCSIE in this regard, they should remain aware of their legal obligations and duty of care in giving accurate references.

13. What is the role of the Governance Body (to which a written low-level concerns policy should also apply)?

13.1 As highlighted above, the Governance Body should be equipped with the knowledge to provide strategic challenge to test and assure itself that the safeguarding policies and procedures in place at their school or college are effective and support the delivery of a robust whole school approach to safeguarding.

13.2 The Headteacher/Principal or Safeguarding Lead should regularly inform the Governance Body about the implementation of the low-level concerns policy and any evidence as to its effectiveness. For example, by including reference to it in any safeguarding reports, and providing any relevant data so that any trends and patterns can be identified.

13.3 The Governance Body should 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.

14. Conclusion

Our belief that there is a need for a revised national approach – as set out in our guidance – in organisations which work with children across all sectors – is not based on theory. There is now more than sufficient empirical evidence to justify the implementation of a formal written low-level concerns policy by organisations which work with children across **all** sectors, and fact that the recording of such concerns is essential in practical terms to ensure effective and informed safeguarding. If implemented and used successfully, it should promote a healthy, informed and more effective protective culture.

⁵³ At the time of publication, we were informed, for example, by The Safeguarding Company of the following in relation to its software: “In relation to the deletion of records, customers are able to delete chronology entries themselves in both Confide and MyConcern and it is a feature which they can ‘turn-on’ for data controllers on the system”

APPENDICES

Appendix A	Table of key features of 15 cases of child sexual abuse in organisational settings	19
Appendix B	Examples of low-level concerns, and to illustrate the boundaries between concerns or allegations that may meet the harm threshold, and concerns or allegations that do not meet the harm threshold	41
Appendix C	Spectrum of behaviour	45
Appendix D	Low-level concerns and data protection	46
Appendix E	Example low-level concern form	54
Appendix F	Example timeline where multiple low-level concerns are shared regarding the same individual	56
Appendix G	Case study on Wellington College	57
Appendix H	Biographies	59



Appendix A

Table of key features of 15 cases of child sexual abuse in organisational settings

This table contains examples of 15 cases of child sexual abuse by adults in organisational settings which were subsequently the subject of a public enquiry or published external review.

Its purpose is to illustrate that it is rare for cases of organisational child sexual abuse to occur without there having been preceding concerns observed by others. It also highlights other relevant issues about the circumstances of the abuse.

This table is by no means exhaustive. The ongoing release of Child Safeguarding Practice Reviews are also likely to highlight cases where behaviours may well have been observed in an organisational setting.

Education Sector⁵⁴

Case and source of information	1. Vanessa George Not for profit nursery (UK) for children aged 2+ and babies under 1 year. Plymouth Safeguarding Children Board (2010) <i>Serious Case Review re Nursery Z</i> . Plymouth, Plymouth Safeguarding Children Board.
The perpetrator	Female nursery worker. Aged 39 when sentenced in 2009. Known to have abused babies and children between late 2008 and June 2009. Concerns about Mrs. George's behaviour were raised from late 2008 (she joined the nursery in 2006). Took indecent images of, and sexually abused children at, the nursery where she worked. Sent images of herself abusing children at the nursery to a male who she met over the internet. She did not meet him in person until their trial. A popular member of staff who was described as having changed around the time of the commencement of the abuse. Initially described by the community as happy and bubbly. The SCR states "Although she was not senior in her position, other factors such as her age, personality and length of service could have created an illusion of position of power and encouraged a sense of trust." (Paragraph 5.2)
Known victim(s)	Babies and children under school age – exact ages unknown. Police were unable to identify victims. Victims were too young to report the abuse.
Colleagues	Staff noted changes from December 2008 when Mrs. George started to talk about chasing men and sexual encounters. Mrs. George was noted to not use general nappy changing areas but to use cubicle with full door. Mrs. George justified this on the basis that she could not bend to change nappies. Mrs. George's physical bulk blocked line of sight of her activities. Mrs. George's position of power within the staff group was such that although staff became increasingly concerned about her crude language, discussion of extra-marital relationships and showing indecent images of adults on her phone, they felt unable to challenge her.

Continued on next page

⁵⁴ Information on cases 1 – 5 originally appeared in Wonnacott, J., Foster, J. and Shaw, H. (2018) *After Savile: Implications for Education Settings* in M. Erooga, M. (ed) *Protecting Children and Adults from Abuse After Savile*, London, Jessica Kingsley Publishers

Education Sector

It is possible that staff believed they had “allowed” the abuse to happen as they had been drawn into her discussions about adult sexual behaviours but had not known how to raise this with others.

A student on placement was described as being petrified of the nursery manager, which may have been indicative of the culture of the nursery.

Organisational culture

Staff described the nursery as dirty, depressing and demoralising.

There were poor recruitment practices.

Roles and boundaries were not clear.

Roles of Trustees were not clear.

The nursery complaints procedure was not clear.

Cliques within staff made it difficult to report or act.

There was poor recording of incidents and follow up.

There were no whistleblowing procedures and, for example, no advice around eg nappy changing etc.

The ratio of staff to children was frequently breached, allowing Mrs. George more opportunities to be alone with a child.

A review of records and staff interviews made it clear that the nursery was not able to consistently to provide a safe, positive environment for the children in its care.

Staff had little or no knowledge of sexual abuse or offending.

Family and community

Parents thought the manager was the owner of the nursery, which was not the case.

Governance arrangements were poor.

Parents did not know how to make a complaint.

Parents and nursery workers socialised together – blurring boundaries.

The nursery manager was also a Governor of the school that the nursery was associated with, and a foster carer, meaning the community expected that she would understand safeguarding, which in turn made it more difficult to challenge the ethos of the school.

Education Sector

Case and source of information	2. Robert Stringer State Primary (UK). Raynes, B (2011) <i>Executive Summary of Serious Case Review Written About Teacher Mr X</i> , Hillingdon Local Safeguarding Children Board.
The perpetrator	Male; joined the school as a newly qualified teacher. Committed suicide when due for trial in 2010, aged 56. Known to have abused girls between 2003 and 2009. Concerns about Mr. Stringer's behaviour were raised in 1998 – the year he joined the school. Charged with 25 offences against four girls between 2000 and 2007. Set up and led a prestigious drama club with which Mr. Stringer used to test out the likely resistance of children he targeted for abuse. Difficult to manage, he flouted school rules and his lessons were known to lack structure.
Known victim(s)	Girls under 13 years old, the youngest aged 9. Known to have favourites. Pupils were aware that Mr. Stringer had access to a large knife used in drama productions. Pupils sought status through selection for roles in the drama club. Pupils were told Mr. Stringer would go to prison if they disclosed and no-one would then be able to look after his disabled wife.
Colleagues	Head and colleagues found Mr. Stringer "difficult." Mr. Stringer instilled fear in staff through his behaviour eg shouting at them. Staff expressed concerns about Mr. Stringer's relationship with pupils in the drama club. Anonymous referral was made to the headteacher. Reported concerns included suspicious photos on Mr. Stringer's computer and him showing 15 rated DVD with explicit sex scenes to year 5 (9 year old) pupils. This latter concern was reported by the parent of another child. Two teachers who attended safer recruitment training informed the headteacher that Mr. Stringer "ticks all the boxes of the [training] exercise <i>Profile of an abuser.</i> "
Organisational culture	Mr Stringer's offending spanned the tenure of two headteachers. Weak leadership of the first headteacher, and personal distractions of the second headteacher, fostered a culture where safeguarding was not taken seriously. Lack of record keeping meant patterns of behaviour were not identified.
Family and community	Parents were desperate for their children to get into the drama club which Mr. Stringer used to foster strong relationships with parents. Parents petitioned for Mr. Stringer to return to the school when suspended. Mr. Stringer had strong backing from the governing body making it difficult for the second headteacher to challenge him.

Education Sector

Case and source of information	<p>3. Nigel Leat</p> <p>State Primary (UK).</p> <p>North Somerset Safeguarding Children Board (2012) <i>Serious Case Review: The Sexual Abuse of Pupils in a First School Overview Report</i>, Weston-Super-Mare, NSSCB.</p>
The perpetrator	<p>Male; joined the school as a mature newly qualified teacher, who had previously worked as a musician and music teacher.</p> <p>Aged 51 when imprisoned in 2011.</p> <p>Known to have abused girls between 2006 and 2010.</p> <p>Concerns about Mr. Leat’s behaviour were recognised from the time at which he joined the school in 1996.</p> <p>Mr. Leat pleaded guilty to 36 sexual offences, including 8 counts of penetration of a child under 13. He possessed 30,500 indecent photographs and 720 indecent films.</p> <p>Despite having been acting senior teacher at the school for 6 months and, at various times appointed as lead coordinator or in a support role to lead coordinator for a range of subjects, Mr. Leat was known to have a lax approach to teaching and classroom discipline.</p>
Known victim(s)	<p>Female primary school victims, the youngest aged 6 years.</p> <p>Mr. Leat had favourite pupils, all female, to whom he gave privileges and presents.</p> <p>Mr. Leat targeted as favourites those academically less able, vulnerable and “pretty.”</p> <p>Two pupils reported to the school that Mr. Leat kissed them and touched their legs but the abuse only came to light after a pupil made a disclosure to her mother.</p>
Colleagues	<p>30 incidents of inappropriate behaviour were reported between 1999 and 2010, ranging from low-level issues around the content of lessons, to touching pupils inappropriately. It was “common knowledge” that Mr. Leat made inappropriate jokes.</p> <p>Staff were unaware of safeguarding procedures and internal training had not enabled them to identify Mr. Leat as an abuser.</p> <p>Non-professional staff made complaints, for example, Mr. Leat having a child on his knee, and having an erection whilst holding a child.</p> <p>The only action in relation to any of these concerns was a single verbal warning.</p>
Organisational culture	<p>There was evidence of poor relationships in the school. Not all staff felt they were treated equally.</p> <p>The school culture did not put children first and discouraged open communication.</p> <p>There was evidence of a hierarchical culture where junior staff did not feel they would be taken seriously, and the headteacher did not rigorously follow up concerns.</p>
Family and community	<p>The school community was not particularly local – parents may not have shared concerns with each other.</p> <p>The school was not seen by external agencies as needing support, leading to a false sense of security in the parent group.</p>

Education Sector

Case and source of information	4. Jeremy Forrest State Secondary (UK). East Sussex Safeguarding Children Board (2013) <i>Serious Case Review: Child G</i> , Brighton, East Sussex Safeguarding Children Board.
The perpetrator	Male teacher. Aged 30 when convicted in 2013. Known to have abused one teenage female pupil during 2012. Concerns about Mr. Forrest’s behaviour were raised over a period of nine months before the abduction of the pupil in September 2012. Developed an older “boyfriend” relationship with the pupil. Set up additional lessons and contacted the pupil via social media.
Known victim(s)	The pupil was aged 14 to 15, and was already known to have been vulnerable from contact with a previous abuser when she was aged 12.
Colleagues	Accumulating concerns developed amongst staff who were aware of Mr. Forrest’s “inappropriate relationship” with the pupil and him using Twitter to communicate with her. Staff were supportive and reluctant to believe Mr. Forrest might be an abuser. Mr. Forrest was seen as the victim of the pupil’s infatuation. A teacher noted in their diary “Discussed with Child G to stop hounding Mr. K [ie Mr. Forrest] in corridors...Find own-age boyfriend.”
Organisational culture	Safeguarding was not high on the agenda in spite of a recent case of abuse in the school which resulted in a member of staff being imprisoned. A “head in the sand” approach was taken to safeguarding and there was an assumption that allegations were false. There was an adult focused culture where pupils’ voices were not heard. The pupil (who Mr. Forrest subsequently abducted) was regarded as the problem.
Family and community	Mr. Forrest spoke directly to the parents of the pupil to reassure them that there was no relationship. The parents accepted that their daughter had a “crush.”

Education Sector

Case and source of information

5. William Vahey

Secondary private/International (UK).

Davies. H. (2014) *Southbank International School Independent Review arising from the criminal conduct of William Vahey: Final Report*, London, Farrer & Co, LLP.

Wonnacott, J. and Carmi. E. (2016) *Serious Case Review: Southbank International School*, Hammersmith and Fulham, Kensington & Chelsea and Westminster LSCB.

The perpetrator

Male teacher.

Identified as an abuser in 2014. Committed suicide aged 64 in 2014 prior to being apprehended by the FBI.

Known to have abused 54 secondary aged boys between 2009 and 2013 (possibly having offended for decades in a career that involved teaching in a number of international schools).

Concerns about Mr. Vahey's behaviour were raised during his first week at the school in 2009.

Mr. Vahey's previous history in the USA (1969) of abusing children was not picked up in pre-employment checks.

Mr. Vahey ran a prestigious 'travel club' involving residential trips abroad. On trips Mr. Vahey drugged victims, many of whom were not then, and are still not, aware that they were abused.

Mr. Vahey aligned himself with those in power, making it difficult to challenge behaviour that may have caused concern.

Mr. Vahey's abuse came to light after he had left the school and was working abroad, when a domestic maid stole a data stick containing images of his abuse.

Known victim(s)

Abused boys aged between 12 and 14 years.

Chose either very popular pupils or those with some vulnerability.

Pupils were 'chosen' or selected to go on trips, and trips were used as a way for Mr. Vahey to be alone with pupils.

Pupils joked that Mr. Vahey was a "paedo" but his popularity and mechanism for abusing boys when they were drugged meant that no formal allegations were made.

Colleagues

Some staff were uneasy about Mr. Vahey's behaviour but put it down to his "informal style."

Mr. Vahey was not universally popular with staff but was difficult to challenge as he aligned himself with those in power.

Staff were overtly threatened that Mr. Vahey could use his wife's influence (she held a high-profile position in the professional community) to damage their careers.

Training on safeguarding had focused mainly on abuse within the family, and did not equip staff to understand indicators of abuse in their own organisation or how to report them.

Continued on next page

Education Sector

Organisational culture

Laissez-faire and relaxed under first headship.

Changes in leadership, management and proprietors caused uncertainty and rifts in the staff group. This diverted attention from any concerns about Mr. Vahey.

There was over-reliance on external inspection regimes rather than reflective practice with clear lines of accountability concerning governance to scrutinise effectiveness of safeguarding practice.

Family and community

Mr. Vahey quickly normalised behaviours such as being alone with children and manipulating staff ratios for trips.

Popular with parents and pupils – Mr. Vahey came second in teacher popularity ratings.

Families from abroad may not have been familiar with child protection expectations and procedures in UK and were provided with very limited information.

The school was a strong social hub for families from abroad where the school was perceived as “part of the family.”

Education Sector

Case and source of information

6. Jonathon Thomson-Glover

Independent boys' day and boarding school (UK).

Jones, P. (2016) *Investigation into Safeguarding Issues at Clifton College Arising from The Prosecution Of X*, Bristol: Clifton College.

The perpetrator

Male Housemaster, teacher and former pupil of the school.

Aged 53 when convicted in 2016.

Known to have abused secondary aged boys over a period of 16 years. Also took covert indecent photographs and videos of male and female pupils.

Concerns about Mr. Thomson-Glover's behaviour were raised from 1999 onwards.

Convicted of taking indecent images of pupils between 1998 and 2004.

330 tapes were recovered by Police.

Secretly installed cameras.

Groomed pupils through providing friendship, beer, pizza, socialising and encouraging them to break school rules. Sexualised relationships through "banter" and discussing his own sexual relationships.

Befriended adult carers and headteachers.

Described by boys as behaving like a friend rather than a teacher.

Known victim(s)

Boys – described as "good looking, naughty, sporty" were favourites.

"Chosen" to go and stay at a holiday cottage owned by Mr. Thomson-Glover, where he also abused two boys.

Victims were also chosen to socialise with Mr. Thomson-Glover in his (school) study, where alcohol was consumed.

In 2003 pupils complained about Mr. Thomson-Glover sleeping in the school boarding house, locking the kitchen and drinking alcohol.

Colleagues

Colleagues noticed blurred boundaries between pupils and Mr. Thomson-Glover.

An Education Psychologist was concerned about favourites and Mr. Thomson-Glover fitting the profile of an abuser.

Several allegations were made about Mr. Thomson-Glover being tied up in his study by pupils in a state of undress.

A cleaner reported Mr. Thomson-Glover wrapping a boy in cellophane as a prank.

Concerns were expressed by non-teaching staff who could see Mr. Thomson-Glover's behaviour was different from other staff. Complaints were diluted, lost or disbelieved as they went up the management chain.

Organisational culture

A liberal ethos in the school had developed from its early days and this deterred people from reporting concerns when rules were broken.

Favouritism was part of the school culture.

There was a culture of "informally socialising."

There was a culture of "pranks" in the school.

There was a lack of curiosity or consideration that "it could happen here."

Continued on next page

Education Sector

Family and community

There were permeable boundaries with families, some of whom would make private visits to Mr. Thomson-Glover's holiday cottage.

Some parents complained that trips were only for favourites.

There was a lack of confidence in the complaints system by families in the late 2000's – they did not want to "rock the boat" in case it was taken out on a pupil. The headteacher and Mr. Thomson-Glover seemed to be friends.

Education Sector

Case and source of information

7. Laurie Elizabeth Softley

State Secondary (Academy).

Teacher Regulation Agency (TRA) Professional conduct panel outcome November 2018.

<https://www.derbytelegraph.co.uk/news/derby-news/lifetime-classroom-ban-ecclesbourne-sex-2409856>.

The perpetrator

Female music teacher.

Aged 34 when prohibited from teaching.

The CPS took the decision not to prosecute.

Known to have sexually abused a 17 year old male pupil in 2008 (on more than one occasion), and a second 17 year old male pupil in 2013 (on more than one occasion).

Both cases of abuse were arranged via social media, and involved alcohol and visits to Ms. Softley's home.

An investigation was conducted and Ms. Softley was given a final written warning in September 2008.

Rumours then existed in school about Ms. Softley's behaviour from 2013. A report in the Derby Telegraph newspaper suggests the behaviours involved swearing and being drunk in charge of an international trip.

Comment was made in the TRA conduct panel's recommendations to the Secretary of State regarding Ms. Softley's disciplinary record at the school "Whilst the factual background to these incidents is separate and different to the proven allegation, the panel considers that this history is indicative of previous failures to act in accordance with required standard of conduct."(P.12).

The panel found little or no evidence that Ms. Softley had any insight into her actions.

Known victim(s)

Two male pupils.

Pupil A, aged 17 in 2008.

Pupil B, aged 17 in 2013.

Pupil B disclosed in 2017 that Ms. Softley had engaged in sexual activity with him, leading to a police investigation.

Colleagues

In 2013 a teacher overheard pupils discussing rumours of an inappropriate relationship between Ms. Softley and pupil B.

Organisational culture

A final written warning for gross misconduct was given in September 2008 regarding pupil A – following Ms. Softley's admission in a police interview that sexual activity had occurred between her and pupil A.

In 2013, an investigation took place regarding pupil B but both he and Ms. Softley denied it. Accounts were sought from other pupils at the school but no direct evidence was found and the matter was closed.

Family and community

Pupils allegedly joked that "She'll buy you a drink – and apparently she'll do more than that."

Pupil B said that when she picked him up in her car she was uncoordinated and missed the gears.

Pupil B had heard rumours that she had "slept with the lads in the years above me."

Whilst at the school Ms. Softley had 'transformed' the music department and was described as a perfectionist.

Sports and Leisure

Case and source of information

8. Jerry (Gerald) Sandusky

Penn State University (USA).

Freeh, L. Sporkin, S. and Sullivan, W. (2012) *Report of the Special Investigative Council Regarding the Actions of The Pennsylvania State University Related to Child Sexual Abuse Committed by Gerald A. Sandusky*, Washington DC; Freeh, Sporkin and Sullivan, LLP.

The perpetrator

A male football coach at Penn State University (PSU), and founder of the Second Mile Foundation, a non-profit organisation which served underprivileged and at-risk youth.

In those roles Mr. Sandusky was a nationally known celebrity in the sports community.

The Second Mile Foundation was praised as a “shining example” of charity work by U.S. President George H. W. Bush in 1990.

Aged 68 in 2012 when convicted of abusing 10 boys and young men between 1994 and 2008.

Known to have abused boys and young men between 1994 and 2008.

An allegation about Mr. Sandusky’s abuse was first made in 1998.

Known victim(s)

Since Mr. Sandusky’s conviction further allegations of his abuse of boys and young men have been made.

He targeted potential victims through the football programs in which he was a leading figure, and through his Second Mile Foundation.

Colleagues

Several staff members regularly observed him showering with young boys, none of whom reported this behaviour to their managers. Some of the offences for which Mr. Sandusky was subsequently convicted occurred during this time.

Concerns about Mr. Sandusky’s behaviour were reported to PSU managers after this time but were not appropriately responded to or acted upon.

Organisational culture

The independent review noted a “total and consistent disregard by the most senior leaders at Penn State for the safety of Sandusky’s child victims.” (P.14)

Further, four senior figures at PSU actively “concealed Sandusky’s activities from the Board of Trustees, the University community and authorities.” (P.14)

Family and community

Mr. Sandusky was well known in the community and highly regarded for his work with youths.

The independent review describes a culture of reverence for the football program (of which Sandusky was a key element) “...that is ingrained at all levels of the campus community.” (P.17)

Sports and Leisure

Case and source of information

9. Grant Davies

RG Dance Studio, Sydney (Australia).

Royal Commission Investigation into Institutional Responses to Child Sexual Abuse (2017) *Report of Case Study No. 37: The response of the Australian Institute of Music and RG Dance to allegations of child sexual abuse*, Commonwealth of Australia, Sydney.

The perpetrator

Male co-owner (with his sister), and principal instructor of, a nationally known dance studio in Sydney, Australia.

Aged 41 when convicted in 2015.

Known to have abused female and male students from 2002.

Allegations of abuse were first made against Mr. Davies in 2007.

As well as sexually assaulting students, Mr. Davies took indecent photographs of them and exchanged thousands of explicit text messages with two young female adolescent victims and their mother.

In 2015, Mr. Davies pleaded guilty to 28 charges relating to child sex offences over a period of 13 years against adolescent female dance students.

Sentenced to 24 years imprisonment, and to serve 18 years before being considered for parole.

Mr. Davies had both hierarchical power as co-owner and principal dance instructor, and was an organisational and national dance community celebrity.

Mr. Davies used his positional and ascribed authority to enable him to make rules that enabled his abusive behaviour. This included giving private tutoring in a secluded location, and to be generally regarded as 'above suspicion,' despite concerns arising about aspects of his behaviour eg choreographing sexualised dance routines.

Known victim(s)

Male and female students aged between 10 and 14 years.

Mr. Davies encouraged obedience to him in order to achieve success in the world of competitive dance and was idolised by many of his victims and their families.

One parent described the dance students as being "on a constant emotional roller-coaster," with Mr. Davies encouraging the children to push themselves to extremes in their performance to please, rather than anger, him.

Students felt emotionally blackmailed by Mr. Davies or were otherwise afraid of him.

Colleagues

Mr. Davies' only significant colleague was his sister and co-owner.

Other dance instructors were also employed at the studio, but overall it appears that by conflating the success of the dance studio and individual students' achievements with sexualised practices (eg not allowing underwear or a G-string while performing) Mr. Davies was able to divert concern about his behaviour.

Organisational culture

A key element of the studio culture was its reputation for having a 'winning' culture, with students often claiming top prizes at competitions.

This engendered a highly competitive atmosphere which required long hours of attendance, conformity to rules about behaviour at the studio and outside of it (eg diet). This led to a high level of compliance with Mr. Davies' expectations and gratitude to him for what was achieved.

Continued on next page

Sports and Leisure

Family and community

Two mothers of Mr. Davies' victims were separately complicit in the abuse. One was subsequently convicted and imprisoned for taking and sending naked, indecent photographs of her two daughters to Mr. Davies.

The other mother was described as "obviously acquiescing" to Mr. Davies' grooming of her daughter and was given a suspended prison sentence.

Students and teachers who expressed concern were accused of telling lies or labelled as "troublemakers."

The inquiry also found that:

- (i) parents were groomed to comply with Mr. Davies' wishes;
 - (ii) reports of child sexual abuse were not made in a timely manner, or were otherwise hindered because Mr. Davies' standing and position within RG Dance intimidated students and families; and
 - (iii) students and parents felt a strong desire to succeed in dance and feared that non-compliance with Mr. Davies' behaviour would have a negative impact on the students' dance careers.
-

Sports and Leisure

Case and source of information

10. Professor Victor Makarov

The Australian Institute of Music (AIM), Sydney (Australia).

Royal Commission Investigation into Institutional Responses to Child Sexual Abuse (2017), *Report of Case Study No. 37: The response of the Australian Institute of Music and RG Dance to allegations of child sexual abuse*, Commonwealth of Australia, Sydney.

The perpetrator

Male Professor of Music.

Aged 51, when arrested in February 2004.

Known to have abused boys between 2002 and 2004.

Allegations of abuse were first made in 2004.

Arrested in February 2004 and charged with sexual offences against two male students. In May 2004, Professor Makarov was charged with a further 19 charges of child sexual assault in relation to an additional three male students. The offences took place at the Institute and Professor Makarov's home.

In a total of four trials, Professor Makarov was convicted of 26 charges, ranging from gross indecency to aggravated indecent assaults and aggravated sexual intercourse with a minor.

He was sentenced to a total of 12 years' imprisonment.

Known victim(s)

Male students aged from 13 to 17 years.

One student victim gave evidence that over time his family became very close to Professor Makarov's family and bought him presents for his birthday, Christmas and when he went on overseas trips.

Colleagues

[Intentionally blank]

Organisational culture

At the time of the allegations against Professor Makarov, AIM did not have any policies, procedures or systems in place concerning the prevention, handling and receiving of complaints, and the conduct of investigations of allegations of child sexual abuse, and it provided no training to staff on reportable offences.

When AIM was made aware of an allegation by one of Professor Makarov's students they suspended Professor Makarov for a weekend. After he was charged with the offences and bailed, AIM decided that he should continue to work but be supervised at all times. Despite advice to the contrary this was apparently due to a view that AIM was in a "legal bind" between the risk of prejudicing Professor Makarov's interests at trial and child protection.

The New South Wales Department of Education and Training subsequently advised that Professor Makarov was rated a "high level of risk" but this did not prompt AIM to change its position not to suspend him.

Family and community

[Intentionally blank]

Health Professionals

Case and source of information	<p>11. Dr. Myles Bradbury</p> <p>Addenbrookes Hospital (UK).</p> <p>Scott-Moncrieff, L. and Morris, B. (2015) <i>Independent investigation into governance arrangements in the paediatric haematology and oncology service at Cambridge University Hospitals NHS Foundation Trust following the Myles Bradbury case</i>, Cambridge, Cambridge University Hospitals NHS Foundation Trust (UK).</p>
The perpetrator	<p>Male Consultant Paediatric Haematologist at Addenbrookes' Hospital, Cambridge, UK.</p> <p>Aged 42 when convicted in 2015.</p> <p>Known to have abused boys between 2007 and 2013.</p> <p>In 2005 Dr. Bradbury purchased a video with images of naked people, including children. Interpol were made aware of this in 2010.</p> <p>Behaviours of concern at Addenbrookes Hospital were identified in retrospect, but not recognised as significant at the time.</p> <p>Dr. Bradbury was sentenced to 22 years imprisonment in 2015, reduced to 16 years on appeal in 2016.</p>
Known victim(s)	<p>Dr. Bradbury pleaded guilty to 28 offences against children, committed over some 3.5 years against 18 male patients aged between 10 and 15 years during medical examinations.</p> <p>As well as sexual assaults, the offences included voyeurism by secretly filming patients with a camera concealed in a pen during medical examinations. Two were offences of possession of 16,000 indecent images of children of a similar age to the patients he abused.</p>
Colleagues	<p>The inquiry indicated that no-one interviewed as part of their and the police investigation, including the families of victims, as well as Trust staff, had raised any concern about Dr. Bradbury's behaviour with the Trust, or with anyone else, nor were they aware of anyone else raising a concern.</p> <p>Dr. Bradbury justified not adhering to usual practice and rules by suggesting his "adjustments" to schedules and protocols were in his patients' best interests – eg non-chaperoned to appointments to spare boys' embarrassment.</p> <p>The inquiry concluded "We consider that the staff on the (unit) are not to blame for failing to be suspicious of Dr Bradbury's behaviour." (P.13)</p>
Organisational culture	<p>Dr. Bradbury had hierarchical power as a senior medical practitioner, and this was the basis of his ability to circumvent agreed policies and safeguarding rules.</p> <p>The inquiry was generally positive about the Trust, and observed that it had "robust and effective safeguarding governance arrangements, going to Board level." (P.13)</p>
Family and community	<p>Dr. Bradbury was involved in church and Scout groups in the community, and was described as "a man of great charm and persuasiveness" whom everybody trusted.</p> <p>Dr. Bradbury abused vulnerable patients and exploited the doctor/patient relationship to conceal the abuse. When one victim raised concerns with his mother, she responded: "He's a doctor, it must be necessary."</p>

Health Professionals

Case and source of information

12. Dr. Larry Nassar

Michigan State University, USA Gymnastics and the US Olympic Committee (USA).

McPhee, J. and Dowden, J. (2018) *Report of the Independent Investigation: The Constellation of Factors Underlying Larry Nassar's Abuse of Athletes*, New York, Ropes and Gray.

The perpetrator

Male team physician and national medical co-ordinator for the USA Gymnastics national team for 20 years. He was also a physician at the School of Osteopathic Medicine at Michigan State University – where he treated the School's gymnasts and other athletes and the team physician to Holt High School, Michigan.

Aged 56 when convicted in 2017.

Alleged to have abused girls since 1994.

Concern about Dr. Nassar was first expressed, by a parent, in 1997.

During 2017 and 2018, Dr. Nassar was convicted of 10 charges of sexual offences against female adolescent patients, and of possessing 37,000 child abuse images, as well as a video of him molesting underage patients.

In three separate trials, in Federal and State courts, during 2017 and 2018, Dr. Nassar was sentenced, cumulatively, to between 140 and 360 years in prison.

Known victim(s)

Subsequent to Dr. Nassar's conviction, a financial settlement was reached in relation to 332 victims of his sexually abusive behaviour, and it is estimated that overall Dr. Nassar committed thousands of acts of abusive behaviour with over 400 adult and minor victims.

Dr. Nassar used physical force, feigned friendship and concern, and the imposing nature of his national position and reputation to enable him to commit acts of abuse which were often physically painful for his victims, as well as to keep them from reporting.

Colleagues

Dr. Nassar's power was derived from his hierarchical and positional authority as the National Medical Coordinator for US Gymnastics, as the most senior physician in the organisation and a Professor of Medicine at Michigan State University.

His 20-year position with US Gymnastics created organisational celebrity as the foremost medical expert in the sport.

Dr. Nassar used his position and power to justify a medical need for vaginal 'manipulation' as a routine part of his treatment regime, to justify seeing patients unchaperoned, and persuading victims that their discomfort with his procedures was justified.

Dr. Nassar used his position and his reputation to convince his patients, their parents, and other physicians that these treatments were medically appropriate, even after complaints were made. During his trial it was concluded that they were in fact primarily for his sexual gratification.

Continued on next page

Health Professionals

Organisational culture

The independent investigation suggested that Dr. Nassar acted “within an ecosystem that facilitated his criminal acts.” It goes on to state that “Numerous institutions and individuals enabled his abuse and failed to stop him, including coaches at the club and elite level, trainers and medical professionals, administrators and coaches at Michigan State University, and officials at both United States of America Gymnastics and the United States Olympic Committee. These institutions and individuals ignored warning signs, failed to recognise textbook grooming behaviours, and on occasion dismissed clear calls for help from those being abused by Dr. Nassar. Multiple law enforcement agencies, in turn, failed effectively to intervene when presented with opportunities to do so.” (W)

Family and community

When survivors first began to come forward publicly, some were shunned, shamed, or disbelieved by others in their own communities.

Other Settings

Case and source of information	<p>13. Jonathan Lord</p> <p>YMCA, New South Wales (Australia).</p> <p>Royal Commission Investigation into Institutional Responses to Child Sexual Abuse (2014), <i>Report of Case Study No. 2 YMCA NSW's response to the conduct of Jonathan Lord</i>, Commonwealth of Australia, Sydney.</p>
The perpetrator	<p>Male childcare assistant at a YMCA childcare centre at Caringbah, Sydney, Australia.</p> <p>Aged 26 when convicted in 2013.</p> <p>Believed to have abused boys from 2009.</p> <p>In 2009 Mr. Lord was dismissed from a YMCA summer camp in the USA for "questionable behaviour" with an 8 year old male camp attendee. Later that year he started work at the YMCA childcare centre YMCA in Sydney as a childcare assistant. This is the setting where he committed the offences for which he was convicted.</p> <p>By early 2013, Mr. Lord had been convicted of 13 offences involving 12 boys:</p> <ul style="list-style-type: none">(i) 11 counts of aggravated indecent assault on a person under 16 years; and(ii) 2 counts of sexual intercourse with a child under 10 and under authority. <p>Mr. Lord was sentenced to 10 years' imprisonment, with a non-parole period of 6 years.</p>
Known victim(s)	<p>While employed with YMCA NSW, Mr. Lord groomed and sexually abused several boys, aged between 6 to 10 years, at YMCA NSW and elsewhere.</p> <p>Many of his offences were committed on YMCA premises and during excursions.</p>
Colleagues	<p>Mr. Lord regularly breached YMCA NSW child protection policies: he was regularly babysitting and attending outside activities with children from YMCA NSW. Both were prohibited activities for all childcare staff.</p> <p>Although some staff and parents knew that Mr. Lord babysat for children outside YMCA hours, they never reported his conduct. In fact, other staff also babysat YMCA children, as did the manager.</p> <p>A further area where Mr. Lord repeatedly breached policies was allowing children to sit on his lap, sometimes when other staff were present. He also used his mobile phone at work to groom children so he could offend against them. Both these activities were in breach of YMCA NSW policy. YMCA Caringbah staff did not identify this behaviour as contrary to the policies.</p>

Continued on next page

Other Settings

Organisational culture

During the period of Mr. Lord's employment, YMCA NSW had over 80 policies in place, and many referred to child sexual abuse and maltreatment. However, the Commission heard expert evidence that the policies were too complex, and sometimes inconsistent and inadequately communicated to staff and parents. Overall, the Commission concluded that YMCA Caringbah did not have an effective system for ensuring that staff and parents were aware of and understood its child protection policies, and that there was a serious breakdown in the application of YMCA NSW's child protection policies at YMCA Caringbah.

The extent of the policy breaches identified suggests a breakdown in communication between management and staff. Although YMCA NSW did have a reporting system, it was ineffective. Some junior staff stated that they felt uncomfortable speaking to their managers, or worried that nothing would be done about their concerns.

In its report, the Commission's concerns were such that it recommended that the YMCA consider whether the General Manager of Children's Services, and the Chief Executive Officer, were fit and proper to hold those positions.

Family and community

Mr. Lord was a generally popular and well-liked member of staff. However, when one mother of a child to whom he showed inappropriate images complained, she did not consider that she received an appropriate response and he went on to commit further offences after that time.

Other Settings

Case and source of information

14. Jimmy Savile

Leeds Teaching Hospitals (UK).

Proctor, S., Galloway, R., Chaloner, R., Jones, C. and Thompson, D. (2014) *The report of the investigation into matters relating to Savile at Leeds Teaching Hospitals NHS Trust, Leeds*; Leeds Teaching Hospitals NHS Trust.

The perpetrator

Male nationally known celebrity in the UK. Sir Jimmy Savile's involvement at Leeds hospitals spanned from 1960 through the 1990s. He volunteered there as a porter and used his celebrity status to take on a role as a fund raiser. He was associated with raising £3.5m for services at the Infirmary.

Aged 84 when he died in 2011.

Believed to have begun abusing in 1962. The last alleged incident at Leeds Infirmary was in 1999. His victims were both male and female children and adults.

Reports were made by patient victims to staff from the mid-1960s but allegations were not escalated or followed up.

Mr. Savile was never charged or convicted during his lifetime. After his death in 2011 allegations began to emerge about his offending.

Known victim(s)

60 accounts of abuse in premises run by the Leeds Teaching Hospitals NHS Trust or its predecessors were received by the inquiry.

Victims ages ranged from 5 to 75 years. 19 children and 14 adults were patients at the time of their abuse. In addition, 19 members of staff reported abusive or inappropriate encounters with Mr. Savile.

The majority of his victims were in their late teens or early twenties. The earliest case was in 1962, when Mr. Savile was 36 years old; the most recent in 2009, when he was 82.

Mostly, assaults were opportunistic, and many took place in public areas such as wards and corridors. However, eight cases suggest an element of premeditation: in some instances, this included the grooming of victims and their families over a period of months. Mostly Savile worked alone, but on occasion he was assisted in his abusive behaviour by others.

They ranged from lewd remarks and inappropriate touching, to sexual assault and rape. These encounters took place on wards, in lifts, in corridors, in offices, off site in a local café, in his mother's house, and in his campervan.

Colleagues

Only four children and five adults reported their experiences at the time to staff or a colleague, but for various reasons were either not considered credible or not appropriately escalated.

Different levels of the organisation held disparate views of Mr. Savile and his value to them. Among staff in the wards and departments he was tolerated because of his celebrity and popularity with patients.

Mr. Savile was, however, seen by many as a nuisance, a disruptive presence in the clinical areas and, towards female staff, a sex pest.

Continued on next page

Other Settings

Organisational culture

Mr. Savile regularly visited wards and departments, both as a porter and as a celebrity. Generally, these would be unannounced visits, at any time of the day or night, and he would chat to patients and staff alike. He was considered to be very popular with patients, and his visits were seen by many as a boost to morale.

Mr. Savile used his personal charisma, and national and local celebrity status, to exploit a setting where he had considerable formal and informal power and influence. His flamboyant and “larger than life” persona gave him further licence for eccentric and unconventional behaviour which resulted in him being free to take opportunities to abuse, for example, he was well known for greeting women by kissing their hand, and sometimes licking their arm.

Family and community

He successfully maintained an almost continual presence in the local press associated with his charitable fundraising.

Other Settings

Case and source of information

15. Jimmy Savile

Stoke Mandeville Hospital (UK).

Johnstone, A. and Dent, C. (2015) *Investigation into the Association of Jimmy Savile with Stoke Mandeville Hospital: A Report for Buckinghamshire Healthcare NHS Trust, Amersham; Buckinghamshire Healthcare NHS Trust.*

Vize, C. and Klinck, B. (2015) *Legacy Report – Further Investigation into the Association of Jimmy Savile with Stoke Mandeville Hospital Amersham; Buckinghamshire Healthcare NHS Trust.*

The perpetrator

Mr. Savile was involved at Stoke Mandeville between 1968 and 1992. He volunteered as a porter, and used his celebrity status to take on a role as a major fund raiser for the hospital, resulting in a newly built unit – for which he raised funds being named after him.

Aged 84 when he died in 2011.

From his earliest association with the Hospital Mr. Savile inappropriately touched young female staff.

The investigation into Mr. Savile at Stoke Mandeville Hospital took the view that enough was known about Savile’s personal conduct by the 1970s to have warranted assertive intervention at a senior level.

Mr. Savile was never charged or convicted during his lifetime. After his death in 2011 allegations began to emerge about his offending.

Known victim(s)

Mr. Savile is believed to have committed sexual crimes at Stoke Mandeville between 1968 and 1992, against 65 female victims and one male victim, aged between 8 and 40 years – including patients, visitors and staff.

Colleagues

Similar to the experience at Leeds Teaching Hospitals, Mr. Savile seems to have been seen by many as a nuisance, a disruptive presence in the clinical areas and, towards female staff, a sex pest. However, there is no indication of general knowledge of his abusive behaviour.

Organisational culture

The inquiry concluded that it appears that the full extent of Mr. Savile’s consensual and non-consensual sexual behaviour remained unknown to the senior members of the hospital staff for several reasons. These included informal and weak complaints and general information management processes, and a hospital where each ward and department managed its own complaints and concerns internally with very little being brought to the attention of the administration.

Disorganised and weak management infrastructure led to a silo-based management of the complaints process. This had the effect of preventing complaints from being resolved appropriately, or coming to the attention of the senior administrative tier.

Family and community

Mr. Savile was generally well regarded publicly and described by a local newspaper as the “patron saint of Stoke Mandeville Hospital.”

Appendix B

Examples of low-level concerns, and to illustrate the boundaries between concerns or allegations that may meet the harm threshold, and concerns or allegations that do not meet the harm threshold

These examples are not exhaustive, nor will the responses set out below be appropriate in every context. This is because determining the appropriate response to any low-level concern is highly context-specific and depends on a range of factors. The purpose is not, therefore, to provide a template response to any given low-level concern. Rather, it is intended to stimulate discussion, and to provide examples of low-level concerns that might be shared with an organisation, to illustrate the boundaries between concerns or allegations that may meet the harm threshold and concerns or allegations that do not meet the harm threshold, and a situation in which low-level concerns might cumulatively meet the harm threshold.

It should be noted that in its response (in May 2022) to its consultation on proposed changes to KCSIE 2021, the DfE recognised that the process for handling low-level concerns varies across local authorities. The DfE also suggested that schools and colleges should liaise with their LADO to ensure they understand what information the LADO wants and take this into account when developing their low-level concerns policy.

1. Low-level concern shared in a school context responded to under disciplinary procedure

A female teacher aged 38 consumes a large quantity of alcohol at the end of term party. The teacher persuades a 21 year old male student PE coach, who is on a placement, to join her in some selfies, where they appear to be kissing each other. She posts the photos on her Facebook account which elsewhere identifies the school.

A colleague sees the photos and shares their concern about this verbally with the school's Headteacher, who makes a record of the information.

The Headteacher reviews the Facebook photographs and speaks with the teacher concerned, who is very embarrassed and apologetic, and agrees to remove the photographs and apologise to the student PE coach.

The Headteacher considers this to constitute a low-level concern and, as such, does not make a referral to the LADO (given it is not considered to meet the harm threshold). The Headteacher makes a record of the information initially shared with her, and her conversation with the teacher, and retains the record in a central low-level concerns file. Given the misconduct concerns, the Headteacher also refers the matter to the HR manager.

The HR manager invokes the school's disciplinary procedure. The teacher admits to inappropriate social media use, and is issued with a formal warning, a record of which is kept on her personnel file. If the teacher were to leave before the expiry of the formal warning this should be referred to in any reference in the normal way.

2. Low-level concern shared in a charity context resulting in further training

Mr. Simpson, a volunteer for a charity that provides support for vulnerable children, is part of a group of volunteers accompanying a class of reception age children from a local school on an outing to a local park. During the outing, Mr. Simpson is seen on

the edge of the group talking to a child who is on his own for a significant period. He also sits with the same child during lunch, and is seen speaking to the child later in the day when waiting for the parents to collect him. Another volunteer speaks to the charity's Safeguarding Lead (SL) about this, as it did not sit comfortably with them, and the SL makes a record of the information shared as a low-level concern.

The SL asks to speak to Mr. Simpson and, during their conversation, asks if he was aware of any behaviour which may have caused any possible concern whilst he was on the outing. Mr. Simpson explains that the child in question was "having a bad day," and he felt he needed some extra support and, new to volunteering, had not come across a situation like this before. He is horrified to hear that someone was concerned about his behaviour.

The SL considers this to constitute a low-level concern and, as such, does not make a referral to the LADO (given it is not considered to meet the harm threshold). The SL also arranges some further training for Mr. Simpson and all the other volunteers around working with children and on safe working practice and self-reporting. The SL retains a copy of the relevant paperwork (including the SL's record of their initial conversation with the volunteer, and with Mr. Simpson, and of the subsequent action taken) in a central low-level concerns file.

This one-off low-level concern should not be referred to in any reference.

3. Low-level concern in a school context dealt with by management guidance

Several pupils, male and female, in Year 6, approach their Head of Year to say that they feel uncomfortable around Mrs. Brown because she 'touches' them, and they don't like it. When asked if they can explain a little more about what they mean, the pupils tell their Head of Year that Mrs. Brown puts her hands on their shoulder when she is talking to them, and sometimes sits at their table in such a way that their legs touch.

The Head of Year immediately makes a record of their conversation with the pupils, which they promptly share with the school's Headteacher.

The Headteacher asks to speak to Mrs. Brown, who explains that she is working in very cramped conditions, especially with a group of Year 6 boys who have grown so much that they take up all the space around the table, and that she sometimes puts a hand on the shoulder to get a pupil's attention.

The Headteacher explains that they understand this is making pupils feel uncomfortable, and refers Mrs. Brown to the school's policy regarding appropriate touch. The Headteacher then plans for the Year 6 class to use a different room where there is more space.

The Headteacher considers this to constitute a low-level concern and, as such, does not make a referral to the LADO (given it is not considered to meet the harm threshold). The Headteacher retains a copy of the relevant paperwork (including the Head of Year's record, and the Headteacher's record of their conversation with Mrs. Brown, and of the subsequent action taken) in a central low-level concerns file.

This one-off low-level concern should not be referred to in any reference.

4. Self-report of a low-level concern in a sports club context

Mr. Oliver is a coach at a tennis club, and asks to speak to the SL about an incident that took place the previous evening. He tells the SL that, after a tennis tournament in a nearby town, the parents of Jamie Jones contacted him at the last minute to say that they would not be able to pick him up as they had to deal with an emergency at home. Mr. Oliver offered to take Jamie home in his own car, and the parents were pleased to agree to this.

However, Mr. Oliver subsequently realised that this was in breach of the tennis club's safeguarding policy, and staff code of conduct – and he is therefore self-reporting this to the SL, and has filled out the club's low-level concerns form.

The SL is of the opinion that this was the best option available to Mr. Oliver at the time, but reminds Mr. Oliver that, should he find himself in such a situation again in the future, he should seek his line manager's or the SL's prior approval to his proposed course of action.

The SL considers this to constitute a low-level concern and, as such, does not make a referral to the LADO (given it is not considered to meet the harm threshold). The SL retains a copy of the relevant paperwork (including the low-level

concerns form completed by Mr. Oliver, and the SL's record of their conversation with him) in a central low-level concerns file.

This one-off low-level concern should not be referred to in any reference.

5. A series of low-level concerns in a school context which result in response under disciplinary procedure

Shortly after the start of the summer term, an initial concern is raised by a teacher with the Headteacher, that he has seen Mr. Stevens, the choir master, shouting at and deriding the young choristers in his care this week – which has led to a couple of them leaving their practice sessions in distress.

The Headteacher makes a record of the conversation, and decides to contact the LADO, in the first instance, to seek their advice on a no-names basis on how best to respond. The LADO agrees that the behaviour is concerning but advises that the harm threshold has not been met.

The Headteacher asks to speak to Mr. Stevens and informs him about the concern that has been shared about his behaviour. Mr. Stevens apologises profusely, and tells the Headteacher that over the past week he has been having a difficult time personally, has not been sleeping well, and has been feeling "a bit upset and short-tempered." However, Mr. Stevens appreciates that his behaviour has not been appropriate, will rectify it, and tells the Headteacher that he also intends to apologise to the children "for his short-fuse."

The Headteacher considers this to constitute a low-level concern and retains a copy of the relevant paperwork (including the Headteacher's record of their conversations with the teacher, the LADO, and Mr. Stevens) in a central low-level concerns file. The Headteacher also refers the matter to the Head of HR who, considering Mr. Stevens' response, notes the situation and does not consider any further action is required at this stage.

However, within a couple of weeks, the same teacher returns to share further concern with the Headteacher, having witnessed Mr. Stevens shouting at, and belittling, the young choristers again.

The Headteacher makes a record of the conversation, and contacts the LADO, who advises that whilst they agree that the behaviour is, again, concerning, it still does not meet the harm threshold.

The Headteacher then asks to speak to Mr. Stevens and informs him about the further concern that has been shared about his behaviour. Mr. Stevens is less apologetic, claiming it's not all his fault and

expressing some frustration over the choristers' capability. He recognises that his personal circumstances "have a part to play in this."

The Headteacher considers this to constitute a further low-level concern, and retains a copy of the additional relevant paperwork (including the Headteacher's record of their conversations with the teacher, the LADO, and Mr. Stevens) in a central low-level concerns file.

The Headteacher informs the Head of HR who decides to invoke the disciplinary procedure, which results in Mr. Stevens being issued with a warning which is placed on his file, and a management plan is put in place.

At this point, the warning would need to be referred to in any reference should Mr. Stevens decide to leave the school before it expires.

Later that term, a parent contacts the Headteacher by email about Mr. Steven's behaviour – once again relating to distress caused by him belittling the choristers, and telling them that they are not fit to be part of the next singing competition that they have been practising for.

The Headteacher contacts the LADO again, who advises that the matter still does not meet the harm threshold but that they are becoming increasingly concerned by Mr. Steven's behaviour.

The Headteacher speaks again to Mr. Stevens, who states that the complaint is unfounded and has only been made because the parent's child was not selected to be a soloist in the competition.

The Headteacher considers this to constitute a further low-level concern, and retains a copy of the additional relevant paperwork (including the email from the parent, and the Headteacher's record of their conversation with the LADO, and Mr. Stevens) in a central low-level concerns file.

The Headteacher informs the Head of HR who, again, invokes a disciplinary investigation. As part of that investigation, Mr. Stevens is told that the school has consulted with the LADO and, while his behaviour does not meet the harm threshold, the LADO has expressed increasing concern about his behaviour. Mr. Stevens is given a final written warning.

If Mr. Stevens were to leave the school prior to the expiry of the warning, this matter would be summarised in a reference making clear the nature of the concern and the action taken.

6. A series of low-level concerns in a school context which cumulatively meet the harm threshold, and result in referral to LADO

Ms. Crompton is a Teaching Assistant (TA) who gives support to children with learning difficulties.

Another TA verbally informs the Headteacher that Ms. Crompton seems to favour working with some children, and won't always work with the others.

The Headteacher speaks to Ms. Crompton who denies that she has done anything wrong. She says that she does exactly as she is directed by the teaching staff, and has no control over who she works with. The Headteacher considers that the information disclosed does not indicate any behaviour contrary to the school's staff code of conduct, and that no further action is required.

A few months later, a member of teaching staff verbally informs the Headteacher that Ms. Crompton sometimes makes excuses to take children out of his classroom to work quietly – and that he has already reminded her that this is against school policy.

The Headteacher speaks to Ms. Crompton, who says that she didn't know it was contrary to the school policy and promises not to do it again. The Headteacher considers that the information shared is a low-level concern, and retains a record of their conversation with the member of teaching staff who shared the concern and Ms. Crompton, in a central low-level concerns file.

Two weeks later, a third member of staff submits a low-level concern form to the Headteacher stating that "they cannot be sure but think that Ms. Crompton applies make-up and perfume when she is working with teenage boys, and that her behaviour sometimes seems to cross the boundary."

The Headteacher speaks to Ms. Crompton about this, who says she likes to look and smell nice, and "there shouldn't be a problem with that." She denies specifically applying make-up or perfume when working with teenage boys.

The Headteacher considers that the latest information shared is a low-level concern but is unsure whether, when combined with the previous low-level concern, the harm threshold has been reached. The Headteacher contacts the LADO to discuss the two instances. The LADO advises that the harm threshold is not met.

The Headteacher retains a record of their conversations with the member of staff that shared the concern, with Ms. Crompton and the LADO in a central low-level concerns file.

Six months later, a 17 year old boy tells his Head of Year that Ms. Crompton always stands near the door of the changing room when they go swimming, and that she has her mobile phone with her. He thinks she may have taken some photos of them all, and of his friend Tom in particular. The Head of Year submits a low-level concern form to the Headteacher.

The Headteacher recognises that the information shared by the Head of Year constitutes a concern that may meet the harm threshold, and makes a referral to the LADO, referring to the latest concern and the two previous low-level concerns.

The LADO decides that this pattern of behaviour meets the threshold for a strategy meeting and further investigation. Ms. Crompton is suspended pending an investigation but immediately resigns.

The investigation should continue notwithstanding the resignation, and a conclusion should be reached in the same way as if Ms. Crompton had continued in employment. If the concern is substantiated it should be referred to in a reference, and consideration given to whether to refer to the Disclosure and Barring Service and Teaching Regulatory Agency.

If the investigation determines that the concern is unsubstantiated, malicious or false, it should not be referred to in a reference.

7. An allegation in a school context with no history of low-level concerns, which leads to referral to LADO

A male pupil aged 14 tells his form tutor that Mrs. Appleby, the chemistry teacher, has hurt him. He shows the tutor a red mark around his neck. When the tutor asks him what happened the pupil says that Mrs. Appleby had shouted at him, telling him that he should not be wearing a neck chain at school, Mrs. Appleby then approached the pupil telling him that he must take the neck chain off immediately. When he hesitated to do so Mrs. Appleby then grabbed the chain and pulled him to his feet. It is clear from the marks on his neck that force has been used and the boy is upset.

The form tutor records what the boy has said, and asks him to come with him to speak to the Headteacher. Mrs. Appleby has been at the school for five years and there have never been any previous concerns raised about her. The Headteacher decides that this is an allegation of physical assault which may meet the harm threshold, and contacts the LADO. The LADO advises that consideration is given to suspending Mrs. Appleby. The LADO also advises that they contact the police and that a strategy meeting will be held. The school is advised by police to ask pupils in the lesson that day to each write an account of what happened in that lesson. As a result, more witnesses come forward, and their accounts corroborate what the pupil said.

The Headteacher refers the allegation to the Head of HR who decides to suspend Mrs. Appleby (as a neutral act pending further investigation because, if true, the allegation amounts to gross misconduct). The Head of HR initiates an investigation. Mrs. Appleby denies using force, but a number of credible witnesses confirm the male pupil's account. Mrs. Appleby is found to have committed gross misconduct and is summarily dismissed. The school refers the case to the Teaching Regulatory Authority.

The school subsequently receives a reference request for Mrs. Appleby to work as an assistant librarian. The school refers to her dismissal for gross misconduct, and accurately reflects the circumstances surrounding it, in its reference.

Appendix C

Spectrum of behaviour

Concern or allegation that may meet harm threshold

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. 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 working with children 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 harm threshold, or is otherwise not serious enough to merit a referral to the LADO.

Appropriate conduct

Behaviour which is entirely consistent with the organisation’s staff code of conduct, and the law.

Appendix D

Low-level concerns and data protection

1. The overlap between safeguarding duties and data protection in general terms – duties of record keeping, retention and information sharing – is increasingly well-understood by practitioners. It is addressed by the Data Protection Act 2018 (**DPA 2018**), by statutory and non-statutory guidance provisions within KCSIE, in Chapter One of WTSC (including the myth-busting guide), and by July 2018 [DfE guidance](#) on Information Sharing (including the ‘Golden Rules’ cited by KCSIE).
 2. KCSIE summarises the position (at paragraph 57) as follows: “Fears about sharing information **must not** be allowed to stand in the way of the need to safeguard and promote the welfare of children”. Annex C of KCSIE (page 169) also stresses the “critical importance of recording, holding, using and sharing information effectively” within the role and training of the DSL. It is stressed that DSLs will need to understand UK GDPR/DPA 2018 when making and keeping “detailed, accurate, secure written records of concerns”.⁵⁵
 3. Given the DPA 2018 safeguarding provisions, there is of course no issue aligning the principles of data protection law with the keeping and sharing of records wherever substantive abuse or neglect is reasonably suspected. The challenge with a low-level concerns policy is to balance the safeguarding interest with personal data rights, where the conduct in question does not meet the harm threshold. In each case the processing must be necessary and proportionate, even if it is potentially seen and evaluated as part of a pattern.
 4. However, following the DfE’s inclusion of the section on low-level concerns in KCSIE, there is now a statutory guidance footing to demonstrate the necessity of recording, holding and sharing this type of data.
 5. The importance of sharing low-level concerns is explained in detail in our main guidance. Crucially, the value to an organisation is dependent on such concerns being shared, recorded and retained over a period of time. In respect of low-level concerns, KCSIE states that schools and colleges in England are responsible for deciding where and how these records are kept, but “they must be kept confidential, held securely and comply with the [DPA 2018 and UK GDPR].”⁵⁶
 6. Applying these rules to everyday practice around sharing and recording low-level concerns, the issues that can arise in our experience are:
 - (a) staff not understanding all the possible indicators of organisational based grooming, and thus not sharing concerns about it (a training issue);
 - (b) a reluctance by staff to share low-level concerns which, depending on the culture of an organisation, can be perceived as a heavy handed or even inappropriate approach;
 - (c) uncertainty as to how and where information provided in the context of low-level concerns may lawfully be recorded and used, under what UK GDPR/DPA 2018 ground, and how long it may be retained; and
 - (d) which principles or exemptions apply to subject access requests to such (personal) data, and related data subject rights around transparency, erasure, and correction.As to (d), a common concern is that access by staff to their low-level concerns record will be counter-productive to the intended objective and risks having a chilling effect on the rate of reporting/recording. We have considered reasons why this may not be so in the main guidance (at paragraph 7).
 7. The legal and factual backgrounds (including the General Data Protection Regulation EU 2016/679 (**GDPR**), now retained in UK law as the **UK GDPR** following Brexit) have been considered in a longer 2019 paper by Hugh Davies KC and Owen O’Rorke, intended for consideration by government departments as the basis for potential guidance. This Appendix addresses the situation as it currently stands (September 2023).
- #### The intention and effect of the current law and guidance (in overview)
8. The DPA 2018 has made express provision, subject to certain conditions, for processing both Special Category Personal Data of a sensitive nature (**SPD**) and criminal records data as required by employment law, and for safeguarding purposes.⁵⁷ The latter provision defines safeguarding widely as protecting a child (ie under the age of 18), or adult at risk, from neglect or physical, mental or emotional harm, or protecting their physical, mental or emotional well-being.⁵⁸

⁵⁵ Please note that whether the DSL is directly involved in making written records of low-level concerns will depend on what their particular school’s/college’s low-level concerns policy itself stipulates about the DSL’s role in the context of low-level concerns

⁵⁶ See KCSIE, paragraph 439. KCSIE then refers back to its standard provisions around sharing of safeguarding information in compliance with this legislation, suggesting that from a data protection perspective KCSIE draws no distinction between low-level concerns and other types of safeguarding information

⁵⁷ DPA (2018), paragraph 18, Part 2 of Schedule 1

⁵⁸ The safeguarding condition at paragraph 18 of Schedule 1 DPA 2018 sits alongside other non-consent special category and criminal data processing grounds in the DPA 2018 of relevance to safeguarding practitioners, whether new or amended from the DPA 1998. These include obligations imposed by law on employers; functions designed to protect the public from seriously improper conduct; standards of behaviour in sport; preventing or detecting unlawful acts; safeguarding the welfare of those at economic risk; providing support for individuals with a particular disability or medical condition by dedicated not-for-profits; and administration of accounts used in the commission of indecency offences involving children

9. These provisions in the DPA 2018 helped to clarify the lawful conditions under which safeguarding professionals operate, and removed any perceived barriers in data protection law for organisations in keeping children safe.
 10. However, except where certain limited exemptions apply,⁵⁹ the DPA 2018 safeguarding provisions do not release organisations or practitioners in this sector from the general burdens imposed by UK GDPR in respect of data subject rights, transparency or accountability more generally. Indeed, the DPA 2018 and UK GDPR have provided for some additional safeguards (such as the need for an **“appropriate policy document”** – see further below – and a **“data protection impact assessment”** for certain types of high-impact data processing) as part of the general requirement on organisations to map out and document the lawful basis for their personal data processing activities.
 11. Our experience is that many organisations, and many individual practitioners, are still uncertain as to how their responsibilities for safeguarding children sit with their obligations under data protection law. Although the DPA 2018 does substantially more to assist practitioners than the old law did, the alarmist media coverage when GDPR first came in left many with the impression that the task of record-keeping and information sharing has got harder since 25 May 2018. This is perhaps fair, in terms of administrative burden and the pro-active need to demonstrate compliance, but justifying the underlying lawfulness of any processing necessary for safeguarding is now easier than before.
 12. Our experience suggests that safeguarding practitioners have been hindered in their understanding of data protection in two contrasting (but equally misguided) ways:
 - (a) an excess of caution: fearing that practitioners might be personally liable for perceived data breaches, and a belief that “because of data protection”, organisations needed consent to collect, record or share certain information (and had to observe strict deletion protocols, and were under a duty to amend or erase records upon request); or
 - (b) the opposing view that, because child protection “trumps” data protection, safeguarding practitioners need not concern themselves with UK GDPR rules, or were somehow exempt (including a belief that safeguarding records are exempted from data subject rights).
 13. Of these two, it is clear that (a) – a misguided excess of caution – carries the greater risk to children. However, to disapply data protection law altogether goes against the essence of individual privacy rights, erodes necessary checks and balances, and places organisations at regulatory risk. Additionally, a safeguarding organisation that has taken its data protection compliance seriously – at a policy, compliance and audit level – will be better placed to deal with subject access and erasure requests which relate to these sensitive areas.
 14. This [Appendix D](#) is intended to assist organisations in finding this balance when implementing low-level concerns policies, and reconcile their data protection duties to all with their duties to protect children.
- ### The tensions between low-level concerns policies and data protection law
15. Since the DPA 2018 there ought to be little or no tension between the application of data protection law to safeguarding information and the needs, or efficacy, of accepted safeguarding practice wherever substantive abuse or neglect is reasonably suspected. When it comes to sharing and recording low-level concerns, however, there are more nuanced and marginal balancing acts for data controller organisations to consider.
- ### Legal basis for processing
16. In legal terms, not all the personal data that might be recorded as a low-level concern (eg small changes in behaviour, favouritism etc) would necessarily, or in isolation, constitute special category personal data (sometimes called “sensitive” personal data, and here **SPD**). However, it is prudent to consider that all information recorded to a low-level concerns file, in a safeguarding context, should be treated as SPD.
 17. The effect of UK GDPR is that, to process SPD, a data controller must satisfy both a condition under Article 6 UK GDPR and one under Article 9 UK GDPR. It is not the purpose of this guidance to consider every possible scenario applicable to practitioners, but it seems likely that for the former most data controllers will be relying on Article 6(1)(f) – namely, that processing is necessary in their (or another’s) legitimate interests – and/or Article 6(1)(b) (namely, under contract with their staff).
 18. For the Article 9 condition, two conditions most obviously apply. First, where processing is necessary in connection with rights or obligations of the employer under employment

⁵⁹ DPA (2018), paragraph 2, Part 1 of Schedule 2: notably where there is a risk of prejudicing the detection or prevention of crime

law; and secondly, the DPA 2018 safeguarding provision which works as follows: the necessity of “safeguarding of children and individuals at risk” (including from emotional, physical or sexual abuse and neglect) is a condition under which individuals or organisations are permitted to share, record or otherwise process SPD, even in circumstances where the person to whom such SPD relates has not explicitly (or otherwise) consented to the information being shared. That is provided that:

- (a) to obtain explicit consent could not reasonably be expected of the controller, or is not possible, or might risk undermining the safeguarding purpose;
 - (b) the use of such personal data is necessary for such a safeguarding purpose in the substantial public interest; and
 - (c) the person or organisation relying on this ground can point to an “appropriate policy document” (see again below) setting out both how its needs meet the relevant condition, and explaining its policy on retention.
- 19.** The UK case law is clear that in this context, both for 17 and 18(b), the word “necessary” does not require that a certain action is absolutely necessary, nor the only means to achieve a purpose.⁶⁰ It is closer to a test of what is **reasonably** necessary, applying rules of proportionality (a principle from EU law): that the use of the personal data clearly supports the purpose, is not excessive nor goes beyond what is reasonably required to fulfil the aim – in this case, the protection of children (or adults at risk).⁶¹
- 20.** Whilst this does mean that controllers ought to use the least amount of personal data necessary to achieve the aim, it should not mean that controllers have to make any compromise in the efficiency of achieving the safeguarding purpose. When applied to low-level concerns policies: if the recording, sharing and retention of the personal data is reasonably held to be necessary in serving a safeguarding purpose, then it ought in our view to fall lawfully within the DPA 2018 condition.
- 21.** There are the following caveats to this rule of thumb:
- (a) there may be means for individuals whose personal data is recorded under the policy to object to the processing;⁶²
 - (b) assuming that (in respect of the UK GDPR Article 9 condition required for the SPD) the

data controller organisation is relying on the safeguarding condition under DPA 2018, it must first establish that explicit consent is not possible, or could reasonably be expected, for the controller to obtain without prejudicing the safeguarding purpose; and

- (c) depending on the precise scope of the policy adopted by the organisation, the nature of the information held may be borderline in terms of the balance between value to the safeguarding purpose, and personal privacy intrusion – namely, the risk of “gossip” or prurience.
- 22.** Provided that the safeguarding purpose is a valid one and those affected are fully notified of the policy, any difficulty in showing the legal basis can, in our view, be overcome by judicious means of a Data Protection Impact Assessment (**DPIA**) – a self-assessment tool, identifying and mitigating the key risk areas – alongside relevant policies. Indeed, because the nature of this data is likely to carry a high risk to the rights and freedoms of individuals, we would advise that a DPIA should form part of the planning and implementation of any low-level concerns policy (and should be reviewed and ratified every two years). For ISBA (Independent Schools’ Bursars Association) members, Farrer & Co has prepared a template DPIA for schools, applying typical considerations, which should provide a suitable jumping-off point. This is available within the ISBA resources library. Otherwise, the ICO has produced its own template [here](#), applicable to all organisations. The ICO template has the benefit of being effectively endorsed by the ICO, although it is not by any means bespoke to sharing and recording low-level concerns and as such organisations may prefer to develop their own.
- 23.** Beyond the legal basis, however, are the burdens placed on organisations by rules of accountability such as data subject rights and additional “appropriate policy documents.”

The need for an Appropriate Policy Document

- 24.** In order to rely on the DPA 2018 safeguarding provision cited above, an organisation must have an “appropriate policy document”, demonstrating that it understands how the legal basis applies to it, and setting out their rationale and period for retention. It will need to be in place when the processing is carried out (and for at least six months thereafter); reviewed at suitable intervals; and made available on request to the ICO.

⁶⁰ See for example Lady Hale at para. 27 in *South Lanarkshire Council v Scottish ICO* [2013] UKSC 55

⁶¹ It is an unfortunate necessity of the DPA 2018 safeguarding ground that it is limited in its application to children (meaning those under 18) or adults with specific care needs, and so organisations that continue to have duties of care to individuals turning 18 may need to identify another legal ground to process relevant special category information about them. However, it may still be adequate if the sharing of information concerning an adult will have a protective function for children, in particular those who might come into contact with them

⁶² Depending on the UK GDPR Article 6 condition relied on by the organisation to process the personal data: eg if the organisation is relying on consent that may be withdrawn; or if the processing is conducted under legitimate interests (in which case it must be balanced against any overriding rights or interests of the data subject)

25. As part of its November 2019 guidance on the processing of special category data, the ICO has developed an appropriate policy document template, although it highlights that using this exact form is not a requirement.⁶³ An organisation may choose to have a stand-alone policy, such as the ICO template; or it may prefer to document its use of the safeguarding data processing condition within its existing policies around safeguarding, retention and/or data protection (including any low-level concerns policy). The important point is that these policies are all internally consistent, and refer to each other where relevant.

Retention of safeguarding files (including low-level concerns)

26. A key element of such a policy would be **retention**. A common difficulty for organisations with safeguarding responsibilities is the fact that, while the law in this area is not prescriptive about retention periods (and neither is KCSIE), this places a high degree of legal responsibility on organisations themselves to draw up a justifiable document retention and/or deletion policy.

27. The clearest guidance comes from case law. In the case of *R (C) v Northumberland County Council* [2015] EWHC 2134 (Admin), the court:

- (a) firmly upheld the data controller council's policy to keep safeguarding records for long periods – to defend historic claims (for which limitation periods may be set aside), to allow those affected access in later life, but above all for the purpose of protecting children;
- (b) did not favour any requirement of regular historic file review by organisations applying long-term retention of safeguarding files, on grounds of “considerable additional burdens” to the “experienced child protection...workers” who are qualified safely to carry them out; and
- (c) relevant to both points above (and in particular to the sharing of low-level concerns), noted: “one of the primary reasons for retention is that information may take on a new significance in the light of later events.”

28. Nothing in UK GDPR or DPA 2018 has changed the position since that case in terms of the principles of retention of personal data, or appropriate periods: the new law simply requires organisations to be more transparent and accountable in how this is done.

29. However, organisations can experience difficulty in determining what categories of “safeguarding” record these long-term retention principles apply to. Are they limited to concerns or allegations that may meet the harm threshold and require referral to statutory agencies; and/or historic records of complaints (eg case files); or could they apply to other files and records potentially including records of low-level concerns retained for a primary safeguarding purpose?

30. Related to this question, there is no specific statutory guidance as to **where** low-level concerns should be recorded – which KCSIE states is up to schools and colleges themselves. Our own recommendation (as set out at paragraph 9.2 of the main guidance) is to have a dedicated, central low-level concerns file (rather than, for example, keeping low-level concerns about staff on their ordinary personnel file, unless the circumstances referred to at paragraph 9.6 of the main guidance apply). We are aware that certain safeguarding software providers offer secure records management systems, such as Confide, tailored for low-level concerns. These can be a helpful and compliant solution, although it will be for organisations to assess the suitability of any particular product for their own needs. Organisations should be mindful of default retention protocols within such platforms and consider how they fit with their own compliance requirements, retention policies and/or privacy notices applicable to staff and pupils.

31. Building from paragraph 27(c) above, it is a critical element inherent in records of low-level concerns that they may take on a new significance in the light of later concerns and/or events, and hence must be retained for long periods to have real value. This is the case whether or not the significance is immediately apparent. However, any policy of retaining low-level concerns on a “just in case” basis needs to be weighed against:

- (a) whether it becomes harder to maintain a position that retaining all such information is still ‘necessary’ (as required by data protection law), particularly for individuals where no more inappropriate, problematic or concerning behaviours have manifested in the interim;
- (b) the possibility of relatively petty or prurient pieces of information being recorded, including by hearsay or through an excess of caution; and
- (c) the likely discomfort and intrusion staff may feel in knowing that the information is being retained (whether self-reported or shared about them).

⁶³ Available for download as a word document, accessed on 31 August 2023, here: <https://ico.org.uk/media/for-organisations/documents/2616286/appropriate-policy-document.docx>

- 32.** In addition to protocols around dealing with individual objections (see further below), records of low-level concerns may require layered retention periods. For example:
- (a) records of low-level concerns about staff that relate to specific children or their parents might diminish in value over time once the child has left the care of an organisation; but
 - (b) some low-level concerns about adults who work with children may continue to have relevance for the length of a working and/or volunteering life, including after they leave the organisation, whereas others may only have value or relevance within the confines and context of the organisation.

- 33.** We would recommend that, whenever staff leave an organisation (and as well as considering the giving of references in paragraph 12 of the main guidance), the low-level concerns policy specifies that any record of low-level concerns that may be kept about such persons 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 for safeguarding, or any potential historic employment or abuse claim so as to justify keeping it longer in line with normal practice for safeguarding records or for claims/insurance purposes; or
 - (b) if, on balance, any record is not considered to have any reasonably likely value for safeguarding or legal claims, and ought either to be deleted or otherwise retained for no longer than the personnel file.

Culture and Staff Code of Conduct

- 34.** The challenge of getting ‘buy-in’ from staff about the benefits and application of a low-level concerns policy is not only a necessity for proper practice and a happy and functional organisation, but also a UK GDPR Article 13 requirement under the transparency principle: data subjects (including staff, children and parents) must be provided with clear information about how their personal data will be collected and for what purpose, and how long it may be held.
- 35.** Our experience is that, properly managed and communicated, staff typically see the benefits in self-reporting (as well as self-training and reflection), as well as the merit in a collegiate culture of sharing low-level concerns about peers where everyone understands the role they play in being watchful and responsible. To mitigate the risk of abusive or malicious sharing, as well as the pain of subject access, records must be fair

and neutrally stated. This has to be approached culturally and in training for Headteachers/ Principals/DSLs or Safeguarding Leads (in terms of recording data) and indeed all staff to whom the policy applies.

- 36.** We are further of the view that, even where an apparent concern is not found to be in breach of an organisation’s staff code of conduct, this may not extinguish its value as a piece of potentially relevant safeguarding information. If so, it could still be kept on the low-level concerns file: if it is reasonably necessary, justifiable and relevant for a safeguarding purpose, the lawful basis to process it remains.

Data subject rights

- 37.** It is one thing for an organisation to consult with its staff on and implement a low-level concerns policy. It is another to maintain the policy under the burden of data subject rights, in the event that staff require disclosure and/or object to or dispute the contents of the low-level concern. Removal of even a single piece of information may undermine the record’s value.
- 38. Rights of erasure or objection.** This guidance is not the place for a detailed analysis of the available justifications for refusal. The summary position with these rights, however, is that they generally can, and therefore ought to be, resisted (as with any other type of safeguarding record) where low-level concerns are shared and recorded fairly and in good faith for a safeguarding purpose.
- 39. Right of rectification.** The ICO takes a helpful position in terms of how organisations might deal with complaints about inaccurate information where accounts are disputed: for example, contemporaneous records, recorded in good faith, that might have value notwithstanding that the data subject disputes them. An ICO-approved response in such situations is to include a record of the data subject’s objection, or contrary account, alongside the original record in a fair and neutral manner. This way its quality as evidence or information can be properly and fully assessed by those who come to review the file in the future.
- 40. Subject access.** The ICO produced its updated [Subject Access detailed guidance](#) in October 2020. However, it did not consider in any great detail the [Child Abuse Data exemption](#) (see paragraph 41b below), or assist practitioners in an education, health or social services context concerning what is termed the “[Assumption of Reasonableness](#)” (see paragraph 48 below) beyond repeating the wording of the legislation.

- 41.** The subject access exemptions most likely to be relevant (albeit that they should not be assumed to apply in a blanket manner) are:
- (a) the rule against needing to disclose confidential references;⁶⁴
 - (b) the Child Abuse Data exemption,⁶⁵ where a person with parental responsibility has made the request on behalf of a person under 18 (with or without the child’s authority, depending on the age and maturity of the child) but the personal data consists of information as to whether that child may be at risk of, has been or is subject to child abuse (widely defined to include sexual abuse, physical and emotional neglect, ill-treatment, and non-accidental physical injury) and the data controller deems that disclosure would not be in the child’s best interests. However, this only applies in that narrow context (ie protecting a child as against a parent) and not more generally (eg to deny another adult access to their own personal data to protect a child);
 - (c) if the matter concerns education, social services or medical data and disclosure risks “serious harm” to any individual⁶⁶ – a high bar, although in fact this is the only exemption specifically referred to in KCSIE (at paragraph 119);
 - (d) where the organisation performs certain functions designed to protect the public (eg from seriously improper conduct or unfitness; or where those at work may pose a risk to the health or safety of other persons), but only where disclosure is likely to prejudice the proper discharge of that function;⁶⁷ and
 - (e) if any third-party privacy rights can be argued (notably those of the child)⁶⁸ – but only to the extent they would be identifiable in relation to their own personal information in the particular record concerned, by context or otherwise. In other words, this exemption could apply if more than one person’s data could be inferred from how a low-level concern is recorded (even if not explicitly named), unless it were still reasonable in all the circumstances to disclose their personal data to the requester.
- 42.** Contrary to widespread belief in some quarters, however, there is no general “safeguarding record” exemption that could be used to protect records about staff from access by those staff members. Nor, as set out in paragraph 7 of the main guidance, is this in our view needed, for the following reasons:
- (a) information that could identify specific children should not be disclosed to staff making subject access requests, and this is quite lawful to withhold under existing rules;
 - (b) similarly, the identity of the person sharing the low-level concern could also be withheld under subject access, if they have not given their consent to their own data being disclosed to the requester and it is not otherwise reasonable to do so.⁶⁹ This may not be straightforward, however, if it is likely to be clear in context whom the low-level concern was shared by. The issues here should be made clear in the low-level concerns policy, and may be for the Headteacher/Principal/DSL or Safeguarding Lead to discuss with the person sharing the low-level concern; and
 - (c) in our view, the policy reasons in favour of transparency with affected staff about low-level concerns – as well as the need for such concerns to be fair, accurate and (where appropriate) raised directly with the person in question – tend to outweigh any benefits of “covert” recording.
- 43.** If the low-level concerns policy is operating properly, then its contents under a subject access request should not come as a surprise to the person about whom such a concern has been recorded. There may be a risk that a request is made before a low-level concern has been adequately raised with the adult in question: but, as long as the order of things is consistent with the applicable policy, then the controller will be able to make the case for the actions taken.
- 44.** Organisations should not feel unduly burdened by introducing policies intended to assist in the protection of children. This is best mitigated by transparency, training, and a careful approach to sharing low-level concerns (as also discussed in the main guidance). Equally important, from an

⁶⁴ DPA (2018), paragraph 24 of Part 4 of Schedule 2

⁶⁵ DPA (2018), paragraph 21 of Part 5 of Schedule 3

⁶⁶ DPA (2018), see throughout Parts 3 and 4 of Schedule 3

⁶⁷ DPA (2018), paragraph 7 of Part 2 of Schedule 2. Please note this exemption is not easily applied to all organisations with safeguarding responsibilities: they need not be public bodies, but the function must be of a public nature and in the public interest. It is also the ICO’s view, although this is nowhere in statute, that the function should be the core activity of the organisation (ie regulatory in nature), and that the exemption should not be used to protect internal grievance, complaint or disciplinary functions

⁶⁸ DPA (2018), paragraph 16 of Part 3 of Schedule 2. Please note this would be of no application if only the adult himself/herself was identifiable from the record, or part thereof, even if there was concern for the safety of a particular child or children. Any separate personal data of the adult would be disclosable

⁶⁹ This is complicated by the application of the so-called “assumption of reasonableness” (see paragraph 48 of Appendix D). Additionally, the identity of the person raising the concern may necessarily emerge in the context of a procedure or claim under employment law. However, much will depend on the specific facts of the case, including the need to protect genuine whistleblowers and to avoid any ‘chilling effect’ on reporting

- employment perspective (both in terms of process and staff trust), is providing clarity about how this information may be used. Collection of such data must be transparent and raised with individuals so that, if necessary, it can be challenged.
- 45.** Properly managed, a low-level concerns policy should not substantially increase the volume burden in subject access. But it is also our experience that, beyond the purely administrative burden, there may be a reluctance to share due to the embarrassment and distress (both to individuals and controllers) that a low-level concerns policy may cause, risking unwarranted reputational damage to individuals. In some organisations this understandable fear may have a chilling effect on the sharing and recording of low-level concerns.
- 46.** However, subject access can fairly be viewed as a necessary form of checks and balances for data controller organisations to record such information fairly and neutrally. Despite the considerable burdens on organisations caused by subject access, there is a strong privacy interest in supporting this right, protected until recently in domestic law in the UK as a fundamental right under Article 8(2) of the Charter of Fundamental Rights of the European Union. The more impactful and personal the information, as here, the greater the need for organisations to be accountable to affected individuals.
- 47. Children’s rights of access or erasure.** This guidance focuses on sharing low-level concerns about adults’ behaviour with respect to children, not on the sharing of concerns in the context of child-on-child abuse, or in assessing children’s vulnerability. However, should identifiable data about specific children be contained in information held in a record of a low-level concern about an adult’s behaviour with respect to them:
- (a) this is something the controller may withhold in respect of a request made by the adult in question; but
 - (b) this could be disclosable upon request by that child or (depending on age, circumstances, and the child’s best interests) someone with parental responsibility for the child.
- 48.** It is worth noting that, in a schools context,⁷⁰ the DPA 2018 “[Assumption of Reasonableness](#)” has the effect that personal data of staff should not be withheld or anonymised under a subject access request where it would otherwise be disclosable under the requester’s subject access rights (ie where it is mixed with the requester’s data).⁷¹
- 49.** For this reason, where possible, and unless this would diminish its safeguarding value, low-level concerns recorded as against an adult should be recorded separately from identifying details of the child if organisations (not limited to schools) believe that the staff member in question should fairly and safely be protected from access to their low-level concerns record by parents or pupils.
- 50. Data Security.** UK GDPR more generally requires that data controllers have security measures (both technical and organisational) that are appropriate to the nature of the data and processing. The most critical aspect, given the highly sensitive and potentially damaging nature of the information contained in even low-level concerns, is to maintain and enforce a need-to-know-only access policy. This would ordinarily be limited to Headteachers/ Principals/DSLs or Safeguarding Leads. It may on occasion be appropriate to grant access to those providing support in a legal or HR capacity (including when dealing with a subject access request), provided it is necessary for a lawful purpose.
- 51.** All controllers are not alike in resources, but the affordability of readily available password protection and encryption software means that the digital retention and, where necessary, onward sharing of such information should be made adequately secure. Such steps should already be in place for allegations reporting. Within the low-level concerns policy itself, thought must be given to the most appropriate and secure means of sharing concerns by staff with the individual(s) stipulated in their organisation’s low-level concerns policy, without making it sufficiently difficult as to discourage reporting or self-reporting.
- 52.** This may best be carried out by means of a face-to-face meeting (see paragraphs 8.15 to 8.17 of the main guidance), whether or not supported by a form such as that at [Appendix E](#).
- 53.** When a policy permits low-level concerns to be submitted (by whatever means) remotely, or in total anonymity, this raises more practical challenges in maintaining appropriate levels of security for organisations to consider. Electronic submissions, for example, would be better handled via a secure portal and not by allowing concerns or forms to be transmitted by an organisation’s general email servers – and risk sitting in staff email accounts.

⁷⁰ DPA 2018, paragraph 17 of Part 3 of Schedule 2: please note a similar rule applies to health and social care workers

⁷¹ This can include where the staff member is identifiable as the source of a comment about, or a witness to a low-level concern relating to, the requester. ICO Guidance (including the 2020 [Subject Access Guidance](#)) has not assisted in limiting this rule, especially in a schools context, and on a literal reading of the DPA 2018 it applies equally whether a request is made by another staff member, or by (or on behalf of) a child. Clearly this can create a tension of rights and, if there are real concerns about being unable to protect staff privacy, legal advice should be sought

ICO Guidance

54. We currently have comparatively little in the way of guidance from the Information Commissioner’s Office (**ICO**) that is specifically tailored to safeguarding practice. However, the ICO’s [Data Sharing Code of Practice](#)⁷² does specifically cite safeguarding of children as both: (a) a “clear example of a compelling reason” for personal data sharing; and (b) also as an example of an “emergency”, namely a situation which may arise unexpectedly and require prompt action, where practitioners “should go ahead and share data as is necessary and proportionate”. The ICO has also produced its [guidance on the processing of special category data](#), which acknowledges safeguarding as part of its general guidance on “substantial public interest” conditions for processing, and provides a template for the appropriate policy document.⁷³

Most recently, in 2023, the ICO produced some [Sharing data to safeguard children FAQs](#) which deal, albeit in very general terms, with some of the questions most commonly asked by safeguarding practitioners. (These also refer out to the ICO’s nascent [Children’s Code Hub](#), which focuses in particular on tech services (but only where the service is directly accessed by the child: the ICO Children’s Code does not apply to safeguarding resources used by staff)). None of these resources, however, deal with the specifics of low-level concerns sharing.

⁷² Published 17 December 2020, and laid before Parliament on 18 May 2021

⁷³ Information Commissioner’s Office (2019) *Special Category Data*, accessed on 31 August 2023 at <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/special-category-data/>

Appendix E

Example low-level concern form

Low-level concern form

Please use this form to share 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 [\[insert name of the organisation\]](#) staff code of conduct, including inappropriate conduct outside of work; and
- does not meet the harm threshold, or is otherwise not serious enough to merit a referral to the LADO.

You should provide a concise record (online/electronically or hard copy) – including 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, timed and dated.

Details of concern

Name of staff member:

Department and role:

Signed:

Time and date:

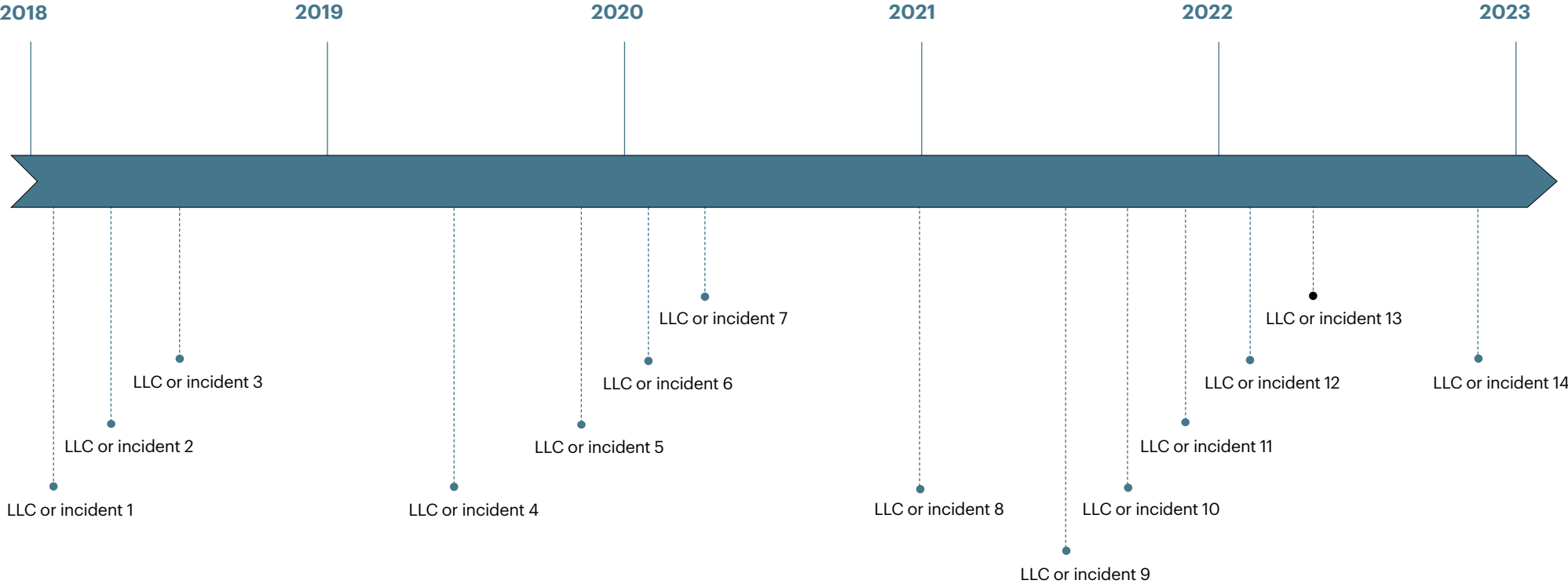
Received by	At: (time)	On: (date)
Action taken: (specify)		

Signed:	Time and date:
----------------	-----------------------

This record will be held securely in accordance with [\[insert name of the organisation\]](#) low-level concerns policy. Please note that low-level concerns will be treated in confidence as far as possible, but [\[insert name of the organisation\]](#) may in certain circumstances be subject to legal reporting requirements or other legal obligations to share information with appropriate persons, including legal claims and formal investigations.

Appendix F

Example timeline where multiple low-level concerns (LLCs) are shared regarding the same individual



Appendix G

Case study on Wellington College

Wellington College began their low-level concerns journey in 2016. Having become fascinated by the work of Marcus Erooga, Delyth Lynch (Director of Safeguarding) saw low-level concerns as the missing piece in the safeguarding jigsaw puzzle; a concept which – alongside the College values and staff code of conduct – gave a language and framework for staff to better understand how important it was to notice the behaviours of their colleagues so that openness and curiosity became part of cultivating a positive organisational safeguarding culture.

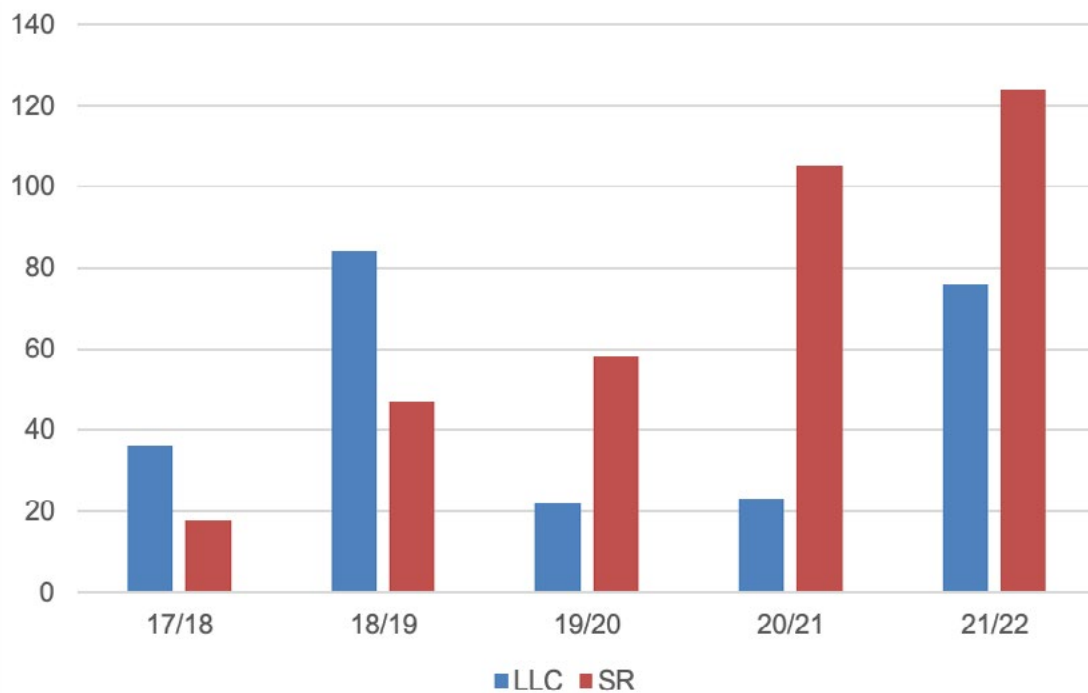
Having a way in which low-level concerns were understood and, in effect, give permission to staff to express concerns about others **especially** when no particular threshold had been met as well as facilitating an open ethos around self-reporting seemed obvious – but also highly challenging: how on earth do you empower all staff to look at the behaviours of their colleagues with curiosity and then show a willingness to **speak** to someone about those observations? This was particularly difficult in a boarding school where colleagues were friends, living and socialising with one another.

Wellington College built up an initial dialogue, highlighting the research that had been carried out in this area, using case studies and expertise to stimulate a debate amongst staff and an appetite for knowing more. Several working parties were set up over the academic year 2016/17 which looked at how a low-level concerns policy might be drawn up. One colleague stated in a meeting “we need something which allows the behaviours of staff which do not cross a particular threshold to be challenged in a supportive way...but in a way in which the individual – and those around them – knows it has been noticed.” Draft policies were circulated for consultation; it was key that every single member of staff was part of the process and felt ownership over this collective move to change the culture. The final policy was launched in 2017 and a working party remained to take feedback from staff about how well it was working and to adapt and amend if necessary.

The College continued to highlight the policy via weekly emails, scenario work and by drawing attention to the number of reports that had been made, so that staff realised that others were using the policy and had trust in the process. Delyth found herself having values-based conversations with staff; calling out behaviours which had been noticed in a supportive way offering further training if appropriate or simply listening to the perspective of that member of staff. These conversations provided a unique opportunity to have meaningful conversations about many different aspects of safeguarding in a way which had not previously been possible.

It was during the academic year 2017/18 that a member of staff commented to Delyth that, “it’s all well and good having the policy, but you’re leadership and some people simply might not want to approach you.” From this, the idea of the Values Guardians was born – a group of staff who were specially trained to listen to staff, and pass on those concerns to the DSL keeping the identity of the individual anonymous if they wished, or simply acting as a bridge. They were also individuals who might gently point out to an individual or group of staff why a conversation might be inappropriate or highlight a good example of where a value had been demonstrated. They carried out departmental training to raise awareness of the values within the context of safeguarding as well as practical examples which displayed the importance of role modelling the values – to other colleagues **and** to the students. Five years on, and their role has changed immeasurably and there has even been a name change. Known now as ‘Values Champions’, they meet all new staff for a one-to-one induction taking them through what the values look like in practice and the link between the values, low-level concerns and safeguarding young people. They celebrate the values by writing hand written cards and sending a ‘champion chocolate’ to staff who have been nominated for displaying a particular value, whilst also continuing to assist and signpost staff to sources of help and support. They have played a quite unique role in nurturing the culture of openness at the College and perhaps the impact of their work is best summarised in the recent comment: “Everyone is a Values Champion.” The group have made links with other organisations who have similar systems in place and they are aiming to learn from other companies outside of the educational sphere – there has already been a brilliant cross fertilisation of good practice and ideas.

One unforeseen outcome of the low-level concerns work at Wellington was that the willingness to share concerns about individuals has been mirrored within the student community. Wellington undertakes an annual survey which prompts the pupils to think about how they would react in certain safeguarding situations. There has been a marked increase in their willingness to speak to staff members and other adults when they are worried about a friend, concerned about the behaviour of a member of staff or if something has happened to them personally. It seems that the students and staff have been travelling a parallel journey. Safeguarding is, however, a continuous journey of learning and curiosity. Future work will involve parents: increasing their understanding of low-level concerns and what this might look like from a parental perspective. If all parents understand the importance of low-level concern reporting, this could transform safeguarding culture across every sphere, not just education – sport, music, drama – and leave little room for any potential offender to abuse a young person.



Logging low-level concerns and self-reports over several years has enabled Wellington to compare annual data. The graph above shows how the numbers have changed over the years. What happened in the two years 2019-2021? Lockdowns...

The information also allows Wellington to compare trends and patterns looking at the staff who are making the reports, the time of year and the types of concerns coming in. This can be insightful in terms of training and messaging; for example, Delyth noticed that there was an increase in self-reports at the end of term. Tiredness, being out of routine and trying to get things done too quickly all meant that errors of judgment and simple mistakes were made. This was highlighted to staff and some advice given about how to avoid mistakes and strategies given with regards to slowing down and thinking. This is now repeated at the end of **every** term!

Wellington does not claim to have all of the answers or be a perfect utopia for low-level concerns; all working within safeguarding know that the journey

will always be ongoing, seeking to gain feedback from staff and pupils about what is working and what is not; constantly sensing how the topography of safeguarding is changing and looking for ways to achieve even more impact. Speaking recently, Delyth stated, “the policy has effectively enabled us to capture behaviours and actions before they escalate, and these have been issues which – in almost all cases – would not have crossed a ‘safeguarding threshold’. The resultant effect has been increased professionalism across the board and a willingness and openness to seek help **and** to help others.”

Priorities in the world of safeguarding shift constantly. What will never be in doubt is that achieving effective safeguarding is intrinsically linked to the creation, implementation and continuous strengthening of a safeguarding culture within any organisation. Everyone involved needs to buy into it and **believe** in it; they then need to live and breathe it so that organisations working with young people can be as safe as possible, because that is what our young people deserve and have a right to.

Appendix H

Biographies



[Email Adele](#)

[Adele Eastman, Senior Counsel, Farrer & Co](#)

Adele is a Senior Counsel in Farrer & Co's Safeguarding Unit. Her expertise is grounded in the two policy reports that she researched and authored for the Centre for Social Justice (CSJ): on educational exclusion, and child protection and mental health.

Adele advises charities (from a UK and overseas perspective), sports organisations and governing bodies, and schools, on wide range of areas including best practice in safeguarding governance, safer recruitment, organisational culture, risk assessments, responding to concerns/allegations, handling safeguarding crises, safeguarding audits/reviews, low-level concerns, child-on-child abuse, mental health issues, and on-line safety. She also advised a number of organisations on their engagement with the Independent Inquiry into Child Sexual Abuse.

Adele is the charity sector lead for the Safeguarding Unit, and was a member of the DCMS led Domestic Charity Safeguarding Programme Group which oversaw the implementation of new safeguarding measures for domestic charities.

Committed to thought leadership and innovative practice, Adele has led on the development of this guidance on low-level concerns, and has devised *Addressing Child-On-Child Abuse: A Resource For Schools and Colleges* with Professor Carlene Firmin, Delyth Lynch and other experts.

Adele is a Governor of Sevenoaks School, a member of the Board of the CSJ, and sits on the Advisory Panel of the charity IntoUniversity – in support of which she cycled from Land's End to John O'Groats in September 2017. Adele was previously a Governor of an academy in London, and a Trustee of a grant-making charity.



[Email Owen](#)

[Owen O'Rorke, Partner, Farrer & Co](#)

Owen is a Partner and member of Farrer & Co's Safeguarding Unit, and first qualified with a media, privacy, IP and telecoms background. Before joining Farrer & Co he gained wide experience in data privacy law and confidentiality, IP advisory and commercial contract work in the publishing, film, technology and sports sectors, and these remain key practice areas.

His practice focuses increasingly on data protection and, aside from the commercial applications of data in publishing and marketing, he has gained a strong reputation in a number of sectors, notably sports organisations, schools and charities. He works extensively with governing bodies in sports and education, and has a particular interest in the information law and technology aspects of safeguarding and e-Safety.



[Email David](#)

[David Smellie, Partner, Farrer & Co](#)

David leads Farrer & Co's Safeguarding Unit. He has been heavily involved in advising clients on safeguarding matters over the last 15 years and, as such, he has witnessed the positive impact of regulatory change over the period. David led the Farrer & Co team which acted as Solicitors to the Independent Review by Hugh Davies KC into the criminal conduct of William Vahey in 2014. David has also acted as child protection governor at three schools, and is recognised as the UK's top-ranked schools lawyer in Chambers UK.



[Email Katie](#)

[Katie Fudakowski, Partner, Farrer & Co](#)

Katie's expertise spans safeguarding, education and employment law. She draws upon a decade of litigation experience in private practice as a barrister and advises schools, education business and sports organisations on all issues involving children, parents and staff. As Counsel for schools defending serious allegations of whistleblowing detriment, discrimination and unfair dismissal in the Employment and Employment Appeal Tribunals she brings real coal face experience to her advice. In pure education law, she has considerable expertise in applying the Equality Act 2010 to Schools and in special educational needs cases, appearing in the Special Educational Needs Tribunal and the TRA.

She also covers the contractual side of education, advising on parental complaints and breach of contract claims. Through Farrer & Co's Safeguarding Unit she advises on safeguarding crisis management, organisation culture change and thought leadership.

She sits of the Council of Europe Sport Division's Pool of international Experts on Safe Sport and is recognised by Legal 500 as a 'next generation partner' who is quick and responsive with excellent judgment.

[Marcus Erooga, Independent Sexual Abuse and Safeguarding Consultant](#)



[Email Marcus](#)

Marcus is an independent Safeguarding Consultant and past Editor-in-Chief and Associate Editor of the Journal of Sexual Aggression (Taylor and Francis), as well as a past Chair of NOTA (the National Organisation for the Treatment of Abusers).

He spent the majority of his employed career in various roles at the NSPCC as a practitioner, team manager and operational Assistant Director as well as service, practice and policy development relating to child sexual abuse and sexual offending.

Since 2012 he has been an independent Safeguarding Consultant working with a range of organisations including NSPCC; the Scout Association; Save the Children International (SCI); Save the Children UK (SCUK); the Methodist Independent Schools Trust; the Methodist Church; the Cognita schools organisation; Ampleforth College and Abbey; Trinity College, Oxford; Addenbrookes Hospital, Cambridge; and Oxfam. He is an experienced trainer and presenter having worked across the UK as well as Canada, Italy, Norway, Singapore and the USA.

Marcus is author of a number of some eighty publications on child abuse and sex offender related issues including five edited books. For the past decade he has had a particular interest in organisational safeguarding, undertaking research about, and with, organisational offenders. His most recent publications include two edited books *Creating Safer Organisations: Practical Steps to Prevent the Abuse of Children by Those Working with Them* (2012, Wiley), and *Protecting Children and Adults from Abuse after Savile: What institutions and Organisations Need to Do* (2018, Jessica Kingsley Publishers) which considers the learning from the 70+ inquiry reports published in the wake of revelations about Jimmy Savile's criminality. In 2019 he co-edited a special edition on the prevention of sexual abuse for the *Journal of Interpersonal Violence* (Sage).

His research experience includes as principal investigator on a research study with people convicted of sexual offences against children committed in professional settings (NSPCC, 2012) and as co-principal investigator (with Professor Keith Kaufman, Portland State University, USA) of a comprehensive literature review of risk and protective factors for institutional child sexual abuse for the Australian Royal Commission into Institutional Responses to Child Sexual Abuse (2016).

He was the expert witness for a Royal Commission case study into sexual abuse of students by the principal in a prestigious Australian dance school in 2016, and was an expert witness for the IICSA (the UK Independent Inquiry into Child Sexual Abuse) investigation relating to residential schools. In 2019 he was made an inaugural NOTA Fellow in recognition of his long-term contribution to the organisation and its work.



[Email Delyth](#)

Delyth Lynch, Director of Safeguarding, Wellington College

Delyth is Director of Safeguarding at Wellington College in Berkshire, having over 22 years experience of teaching and senior leadership in independent schools. Passionate about the area of safeguarding, she was awarded the Boarding Schools Research Fellowship in 2018 undertaking some unique research in the field of abuse within boarding schools and what makes them uniquely vulnerable places.

Her work has been cited at IICSA and she speaks regularly around the issue of culture within schools and the work that she has pioneered at Wellington around Values, Behaviours and Attitudes interviewing and low-level concerns. This work was recently recognised on the national stage by being awarded the Safeguarding and Child Protection Association's 'Outstanding initiative award'.

Delyth is an active member of SACPA and the NADSL, and writes regularly for various publications about a variety of safeguarding topics which affect schools. Delyth is also the England Representative on The Institute of Boarding Executive Committee. She leads the Bracknell Forest Independent Schools DSL group, is a Governor at a local school and also enjoys a bit of ultra running in her spare time.

Special thanks

With special thanks to Hugh Davies OBE KC (3 Raymond Buildings), and Jane Foster (Independent Safeguarding Consultant and Advisor), for their respective contributions to the original version of this guidance, published in 2020.

Farrer & Co LLP
66 Lincoln's Inn Fields
London WC2A 3LH

+44 (0)20 3375 7000
insights@farrer.co.uk
www.farrer.co.uk

F&
Co