

# Low-Level Concerns: Clarification From The Department For Education



Adele Eastman | 18 November 2021

Fundamentally, there appears to be some confusion on the ground over the role of the DSL in the context of the formal low-level concerns (LLCs) mechanism introduced by *Keeping Children Safe In Education 2021 (KCSIE 2021)*.

In light of this confusion, I have spoken to the DfE, which has very helpfully provided the following clarification:

## Confusion over who LLCs should be shared with

KCSIE 2021 now requires LLCs to be shared with the Headteacher/Principal [I will state "Head" for ease] – unless they relate to them (as per Paragraph 74 of KCSIE), and uses the language that they "should" be referred to the Head.

The DfE has confirmed that:

- "Should" means that it is strongly recommended by the DfE unless a school can justify why they haven't followed it and have good reason for that. This means that if a school has an alternative process that works better for them, then that is fine, and the DfE would expect the process to be set out in their LLCs policy.
- Therefore, if a school had a pre-existing LLCs policy in place prior to KCSIE 2021 in respect of which LLCs have been shared with the DSL, and that process is considered to be working effectively, and potentially changing it so that LLCs would be shared with the Head, could lead to concerns about the potential negative impact on the safeguarding culture that exists at the school – then it will be fine for LLCs to still be shared with the DSL but the DSL will still need to inform the Head of the LLCs.
- For those schools which did not have a pre-existing LLCs policy in place prior to KCSIE 2021, the approach taken by them in respect of whether LLCs should be shared with the DSL or Head should reflect the particular context, processes and culture within their school, and the role of the DSL – which can be slightly different in some schools. Therefore, if a school's DSL role is considered to provide the most effective conduit of information in the context of LLCs, then LLCs could be shared with them and, again, they would need to inform the Head of the LLCs – whatever works best for each individual school.
- It is also recognised by the DfE that in some schools the Head of course also performs the role of the DSL.
- In terms of when LLCs should be shared by the DSL with the Head – that will come down to the DSL's judgment, according to their determination as to whether a LLC is more serious – if so, it should be shared immediately with the Head, or if less serious, it could be shared on a weekly basis (or according to the

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basis upon which the DSL at the particular school regularly shares safeguarding information with the Head).

- The Head should be the ultimate decision maker in respect of all LLCs, although it is recognised that according to the nature of some LLCs and/or the role of the DSL in some schools (for example, acting as a critical consultant to the Head), the Head may consult with the DSL and a more collaborative approach may be taken on decision making by them.

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## **Confusion over the role of the DSL in the context of Values Guardians/Safeguarding Champions (VGs/SCs)**

As stated in *Developing and implementing a low-level concerns policy: A guide for organisations which work with children*, September 2021 (**our LLCs Guidance**), whilst there is no specific reference to VGs/SCs in KCSIE 2021, we understand from the DfE that it is nonetheless open to schools in England to introduce these within their LLCs mechanism – whereby, as an alternative option, staff could share any LLCs with selected individuals from across the school who are specially selected, trained and championed as VGs/SCs. We believe – and this is borne out by the VGs in place at Wellington College – that, if implemented properly, this role has real potential value by helping to avoid the sharing of LLCs as possibly being seen as a “top down” initiative.

However, we have been made aware of confusion on the ground over the DSL role in the context of VGs/SCs – ie some schools interpreting our LLCs Guidance to mean that a VG/SC could include the DSL. This was absolutely not our intention – they are two distinct roles and should be kept separate; indeed the value of such a position with respect to VGs/SCs is that it allows concerns to be shared with someone who is trained and is not a member the Senior Leadership Team.

The fact that the DfE has clarified that LLCs can in fact, on the basis explained above, be shared with the DSL, who should then inform the Head of them, should hopefully remove any confusion in this regard.

Therefore, in schools which have introduced, or intend to introduce, VGs/SCs within their LLCs mechanism – if a member of staff chooses to share a LLC with a VG/SC in the first instance, because they feel more comfortable doing so, then the VG/SC must immediately pass the LLC on, according to the process in place at their school – ie either to the DSL, who must then inform the Head, or to the Head.

Again, where a school introduces VGs/SCs within its LLCs mechanism, the DfE would expect to see reference to them, and the relevant procedure to be followed, set out within their LLCs policy.

## **Confusion over the role of the DSL once LLCs have been shared with the Head**

There is also some confusion over the potential involvement of the DSL once LLCs have been shared with the Head.

The fact that the DfE has clarified that LLCs can in fact, on the basis explained above, be shared with the DSL, who should then inform the Head of them, makes it clear that the DSL can be involved from the outset, where that works best for schools. However, where it is decided that LLCs should be shared with the Head, as opposed to the DSL, then the DfE has confirmed that:



- The formal LLCs mechanism contained within KCSIE 2021, and reflected in our LLCs Guidance, does not prevent the Head, once they have been informed of the LLC, from involving the DSL with the handling of a LLC, as necessary/appropriate.
- Again, the Head should be the ultimate decision maker in respect of all LLCs, although it is recognised that according to the nature of some LLCs and/or the role of the DSL in some schools, the Head may consult with the DSL and a more collaborative approach may be taken on decision making by them.

## Confusion over access to LLCs records

There is of course a natural distinction between the process of sharing LLCs and access to LLCs records. Given the DfE's above clarification it is clear that:

- where all LLCs are to be shared, in the first instance, with the DSL, as opposed to with the Head, then the DSL will naturally have access to the LLCs records – including where the school is using recording and case management software such as Confide or Staff Safe; and
- where all LLCs are to be shared, in the first instance, with the Head, as opposed to with the DSL, the DfE recognises that the Head may nonetheless wish to involve the DSL as necessary/appropriate, and grant the DSL access to the LLCs records – again, including where the school is using recording and case management software such as Confide or Staff Safe – so that whilst all LLCs go to the Head in the first instance, as opposed to the DSL, and the Head remains the ultimate decision maker, the DSL could have full sight of any safeguarding issues, and the complete safeguarding picture, across the school, and review the LLCs to identify any potential patterns of concerning, problematic or inappropriate behaviour.

Finally, just to reinforce that **the fundamental message from the DfE is that as long as a school's LLCs policy clearly sets out the procedures in place, and who deals with what and at what stage, and has good reason for adopting the particular process they have, then the DfE would not have concerns with LLCs being shared initially with the DSL, as opposed to with the Head, as long as the DSL informs the Head of all LLCs and in a timely fashion according to the nature of each particular LLC.**

The DfE of course keeps KCSIE under review and, subject to Ministerial agreement, aims to carry out a consultation in early 2022, which will include seeking feedback on the wording on LLCs. In the meantime, the DfE will share the above clarification with ISI and Ofsted.