

Persons in Position of Trust (PiPoT)

A framework and process for responding to allegations and concerns against people in position of trust who work with adults with care and support needs.

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1. Introduction

- 1.1 While the primary focus of adult safeguarding work is to safeguard adults with care and support needs.
- 1.2 There will be occasions where a risk or potential risk may be posed by a person who works in a position of trust. **Note** – the framework and process is not just about concerns in people's personal life, the allegation can relate to both personal life and in a professional capacity.
- 1.3 If a concern is raised about an employee it will be necessary for the employer (or student body or voluntary organisation) to assess any potential risk to adults with care and support needs who use their services, and, if necessary, to take action to safeguard those adults and this could also include informing any other employer subject to checks and balances outlined in your internal guidance. [Care and Support Statutory Guidance: Paragraph 14.122](#)
- 1.4 **For adult(s) with care and support needs** - allegation are managed under 'Person in Position of Trust (PiPoT) Framework – [Care Act 2014](#) and the [Care and Support Statutory Guidance](#)
- 1.5 **For children – managing allegations against adults who work with children – the Local Authority Designated Officer (LADO)** - [Working together to safeguard children 2023: statutory guidance \(publishing.service.gov.uk\)](#) states that organisations and agencies working with children and families should have clear policies for dealing with allegations against people who work with children. Such policies should make a clear distinction between an allegation, a concern about the quality of care or practice or a complaint.
- 1.6 An allegation may relate to a person who works with children who has:
- Behaved in a way that has harmed a child, or may have harmed a child
 - Possibly committed a criminal offence against or related to a child
 - Behaved towards a child or children in a way that indicates they may pose a risk of harm to children
 - Behaved or may have behaved in a way that indicates they may not be suitable to work with children
- 1.7 **Safeguarding referral for adults working with children**
- 1.8 Children and young people can be subject to harm by those who work with them in any setting. This may be by a professional, staff member, sports coach, foster carer or volunteer. If you have concerns about an adult working with children, please use the resources below to refer to the Local Authority Designated Officer (LADO) via the online Children's Portal. Please note you will need to create an account if you do not already have one, this can then be used to make referrals to most services relating to children.
- 1.9 The portal can be accessed here: [Salford Children and Families Portal](#)
- 1.10 This document provides a high-level, overarching framework for Salford on the approach and process to follow when responding to allegations and concerns relating to people who work in a position of trust with adults who have care and support needs.
- 1.11 This document is directed at agencies and individuals who are "relevant partners" as defined in [Section 6 \(7\) of the Care Act 2014](#), and/or who are members of their local Safeguarding Adults Board, and those agencies providing universal care and support services.
- 1.12 This document should be read alongside [Salford Adult Safeguarding Policy and Procedures](#), and relevant local information sharing protocols.
- 1.13 This framework has been developed taking direction from the 'Northwest Policy for Managing Concern around People in Positions of Trust with Adults who have Care and Support Needs' (Version 5.3 September 2019) and the ADASS Top Tips for Directors in managing allegations.

2. Background

- 2.1 The Care and Support Statutory Guidance formalised the expectations on local Safeguarding Adult Boards to establish and agree a framework and process for how allegations against people working with adults with care and support needs (i.e. those in a position of trust) should be notified and responded to. ([Care and Support Guidance, Paragraph 14.121](#))
- 2.2 **While the Care Act outlines clear legal duties on the local authority to undertake enquiries in certain circumstances where adults with care and support needs are identified as experiencing or being at risk of abuse or neglect, the Care Act does not set out any primary legal duties on the local authority associated with managing allegations against people who work in a position of trust with adults with care and support needs.**
- 2.3 **The Care and Support Statutory Guidance does, however, set out the expectation for local authorities, their relevant partners ([Care Act 2014, Section 6 \(7\)](#) and those agencies providing universal care and support services, to have clear policies in line with those from the Safeguarding Adults Board for dealing with allegations against people who work, in either a paid or unpaid capacity, with adults with care and support needs.**
- 2.4 As such, this framework builds upon existing relevant statutory provision; particularly legislation that governs the lawful sharing of information, employer responsibilities to risk assess and manage the safety of their service and staff, and the Human Rights Act when balancing one right against another, or one person's rights against the interest of society.
- 2.5 Any actions and interventions taken to address concerns or allegations that a person in a position of trust poses a risk of harm to adults with care and support needs must be lawful and proportionate, and comply with any relevant statutory provision, for example, Data Protection Act 1998, Human Rights Act 1998 and employment legislation.
- 2.6 Allegations against people who work with adults with care and support needs should not be dealt with in isolation. Any action necessary to address corresponding welfare concerns in relation to an adult involved should be taken without delay and in a coordinated manner, to prevent the need for further safeguarding in the future.
- 2.7 **The Care Act 2014 Statutory Guidance also requires that employers, student bodies and voluntary organisations to have clear internal procedures in place setting out the process, including how to report the concerns, timescales for investigation and what support and advice will be available to individuals against whom allegations have been made.**
- 2.8 The Care Act 2014 Statutory Guidance reinforces the requirement that if an organisation removes an individual (paid worker, student or unpaid volunteer) from work with an adult with care and support needs (or would have, had the person not left first) because the person poses a risk of harm to adults, the organisation must make a referral to the [Disclosure and Barring Service](#). It is an offence to fail to make a referral without good reason. ([Care and Support Statutory Guidance, Paragraph 14.127](#))

3. Scope

- 3.1 This framework and process applies to concerns and allegations about –
 - a person who works with adults with care and support needs in a position of trust, whether an employee, volunteer or student (paid or unpaid); and,
 - or where concerns or allegations indicate the person in a position of trust poses a risk of harm to adults with care and support needs.
- 3.2 These concerns or allegations could include, for example, that the person in a position of trust has:
 - Behaved in a way that has harmed or may have harmed an adult or child;
 - Possibly committed a criminal offence against, or related to, an adult or child;
 - Behaved towards an adult or child in a way that indicates they may pose a risk of harm to adults with care and support needs.

- 3.3 This framework applies whether the allegation relates to a current or an historical concern. Where the allegation or concern is historical, it is important to ascertain if the person is currently working with adults with care and support needs and if that is the case, to consider whether information should be shared with the current employer.
- 3.4 The framework does not cover complaints or concerns raised about the quality of the care or professional practice provided by the person in a Position of Trust. Concerns or complaints about quality of care or practice should be dealt with under the relevant agency or individual complaint and competence frameworks and processes.

4. Principles

- 4.1 This framework builds upon existing relevant statutory provision. There is no primary statutory duty associated with the position of trust framework so any actions taken must be in line with other relevant statutory provision, e.g. Data Protection Act 1998, Human Rights Act 1998 and employment legislation. Any actions and interventions must be lawful and proportionate.
- 4.2 As with all adult safeguarding work, the six statutory principles should inform this area of activity:
- **Empowerment** - People being supported and encouraged to make their own decisions and informed consent
 - **Prevention** - It is better to take action before harm occurs
 - **Proportionality** - The least intrusive response appropriate to the risk presented
 - **Protection** - Support and representation for those in greatest need.
 - **Partnership** - Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse.
 - **Accountability** - Accountability and transparency in safeguarding practice.
- 4.3 It is important to remember that the person in the position of trust is entitled to ask to see any information held about them. It would be best practice to seek the views of the person whose information you hold unless it will increase identified risk or endanger an adult with care and support needs. It is also **good practice** to seek the individual's consent to share the information, provide the individual the opportunity to share the information themselves, and to give them the right to reply. However, if an adult with care and support needs is at risk, information can be shared without consent.

[Information Sharing and Confidentiality | Salford Safeguarding Adults Board](#)

5. The wider legal framework to be considered.

5.1 Confidentiality

- 5.1.1 The rules on confidentiality, privacy and the need to safeguard personal information arise from both legislation and case law. These enshrine the need for fair and ethical treatment of information where there is a duty of confidence, issues of privacy or where personal information is involved.
- 5.1.2 The common law duty of confidentiality is not a written Act of Parliament. It is "common" law. This means that it has been established over a period of time through the Courts. It recognises that some information has a quality of confidence, which means that the individual or organisation that provided the information has an expectation that it will not be shared with or disclosed to others. For information to have a quality of confidentiality it is generally accepted that:
- It is not "trivial" in its nature,
 - It is not in the public domain or easily available from another source,
 - It has a degree of sensitivity,
 - It has been communicated for a limited purpose and in circumstances where the individual or organisation is likely to assume an obligation of confidence.

For example, information shared between a solicitor/client, health practitioner/patient. In such circumstances the information should only be disclosed:

- With the permission of the provider of the information; or,
- If the confidentiality requirement is overridden by legislation; or,
- If an effective case 'that it is the public interest' can be made.

5.1.3 Decisions on sharing information must be justifiable and proportionate, based on the potential or actual harm to adults and the rationale for decision making should always be recorded ([Care and Support Statutory Guidance, paragraph 14.131](#)).

5.1.4 When sharing information about adults, children and young people at risk between agencies it should only be shared:

- Where relevant and necessary, not simply all the information held,
- With the relevant people who need all or some of the information,
- When there is a specific need for the information to be shared at that time ([Care and Support Statutory Guidance, paragraph 14.132](#)).

5.2. The General Data Protection Regulation (GDPR) and Data Protection Act 2018.

5.2.1 The General Data Protection Regulation (GDPR) and the Data Protection Act 2018 introduced new elements to the data protection regime, superseding the Data Protection Act 1998.

5.2.2 Information relevant to adult safeguarding will often be data that the Act categorises as "special category personal data" (Article 9 of the General Data Protection Regulation), meaning it is sensitive and personal. Wherever possible, individuals and agencies should seek consent to share information, and be open and honest with the individual from the outset as to why, what, how and with whom, their information will be shared. If consent is not given or cannot be gained, the GDPR and Data Protection Act 2018 do not prevent, or limit, the sharing of information for the purposes of keeping adults with care and support needs safe.

5.2.3 The [Data Protection Act 2018](#), allows for sharing of "special category personal data" without consent of the data subject for the purpose of safeguarding adults with care and support needs. Information can be shared legally without consent if a practitioner or agency is-

- unable to gain consent from the data subject,
- cannot be reasonably expected to gain consent from the data subject, or
- if gaining consent could place an adult with care and support needs (or a child) at risk.

5.2.4 Individuals and agencies should consider the following information sharing principles to help when making decisions about sharing personal and sensitive information:

Necessary and proportionate

5.2.5 When taking decisions about what information to share, you should consider how much information you need to release. Not sharing more data than is necessary to be of use is a key element of the GDPR and Data Protection Act 2018, and you should consider the impact of disclosing information on the information subject and any third parties. Information must be proportionate to the need and level of risk.

- **Relevant** - Only information that is relevant to the purposes should be shared with those who need it. This allows others to do their job effectively and make informed decisions.
- **Adequate** - Information should be adequate for its purpose. Information should be of the right quality to ensure that it can be understood and relied upon.
- **Accurate** - Information should be accurate and up to date and should clearly distinguish between fact and opinion. If the information is historical then this should be explained.
- **Timely** - Information should be shared in a timely fashion to reduce the risk of missed opportunities to offer support and protection to adults with care and support needs. Timeliness is key in emergency situations, and it may not be appropriate to seek consent for information sharing if it could cause

delays and therefore place an adult with care and support needs at increased risk of harm. Practitioners should ensure that sufficient information is shared, as well as consider the urgency with which to share it.

- **Secure** - Wherever possible, information should be shared in an appropriate, secure way. Practitioners must always follow their organisation's policy on security for handling personal information.
- **Record** - Information sharing decisions should be recorded, whether or not the decision is taken to share. If the decision is to share, reasons should be cited including what information has been shared and with whom, in line with organisational procedures. If the decision is not to share, it is good practice to record the reasons for this decision and discuss them with the requester. In line with each organisation's own retention policy, the information should not be kept any longer than is necessary. In some rare circumstances, this may be indefinitely, but if this is the case, there should be a review process scheduled at regular intervals to ensure data is not retained where it is unnecessary to do so.

The seven golden rules to information sharing

1. **Remember that the General Data Protection Regulation (GDPR), Data Protection Act 2018 and human rights law are not barriers** to justified information sharing but provide a framework to ensure that personal information about living individuals is shared appropriately.
2. **Be open and honest with the individual** (and/or their family/representatives where appropriate) from the outset about why, what, how and with whom information will, or could be shared, and seek their agreement, unless it is unsafe or inappropriate to do so.
3. **Seek advice from other practitioners, or your information governance lead**, if you are in any doubt about sharing the information concerned, without disclosing the identity of the individual where possible.
4. **Where possible, share information with consent, and where possible, respect the wishes of those who do not consent to having their information shared.** Under the GDPR and Data Protection Act 2018 you may share information without consent if, in your judgement, there is a lawful basis to do so, such as where safety may be at risk. You will need to base your judgement on the facts of the case. When you are sharing or requesting personal information from someone, be clear of the basis upon which you are doing so. Where you do not have consent, be mindful that an individual might not expect information to be shared.
5. **Consider safety and well-being:** base your information sharing decisions on considerations of the safety and well-being of the individual and others who may be affected by their actions.
6. **Necessary, proportionate, relevant, adequate, accurate, timely and secure:** ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those individuals who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely (see information sharing principles above).
7. **Keep a record of your decision and the reasons for it** – whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose.

5.3 The Crime and Disorder Act 1998

- 5.3.1 Any person may disclose information to a relevant authority under Section 115 of the Crime and Disorder Act 1998, 'where disclosure is necessary or expedient for the purposes of the Act (reduction and prevention of crime and disorder)'. 'Relevant authorities', broadly, are the police, local authorities, registered providers of social housing, health authorities (NHS Greater Manchester Integrated Care Boards previously known as Clinical Commissioning Group) and local probation boards.

5.4 Human Rights Act 1998

- 5.4.1 Human rights are freedoms which belong to all individuals regardless of their nationality and citizenship. They are fundamentally important in maintaining a fair and civilised society.
- 5.4.2 In cases of concern or allegations against people who care for adults with care and support needs the Act is relevant when decisions have to be made which consider balancing one right against another, or one person's right against the interest of society. These rights are fundamental and the most important of them are;
- **Article 2:** Prohibition of torture – No one shall be subjected to torture or to inhuman or degrading treatment or punishment.
 - **Article 6:** Right to a fair trial – A person has a right to a fair and public hearing within a reasonable amount of time. This applies both to criminal charges against them and to cases concerning their civil rights and obligations. If it is a criminal charge, the person is presumed innocent until proven guilty according to law and has certain guaranteed rights to defend themselves.

- **Article 7:** No punishment without the law – A person normally has the right not to be found guilty of an offence arising out of actions which at the time they committed them were not criminal.
- **Article 8:** Right to respect for private and family life - A person has the right to respect for their family life, their home and their correspondence. This right can be restricted only in specified circumstances.

6. Key roles and responsibilities.

6.1 The Data Controller – who is the data controller?

- 6.1.1 Under the Data Protection Act 1998, a data controller is the person (i.e. person/entity) who (either alone, jointly or in common with other persons) determines the purposes for which and the manner in which any personal data is, or is to be, processed.
- 6.1.2 On balance for the purpose of this framework, **the ‘relevant agency’ receiving the information will be the data controller** as they will determine the purposes and means of processing this sensitive information.
- 6.1.3 An agency who would be seen as the a ‘**relevant agency**’ to the Salford Safeguarding Adult Board, is defined in [Section 6 \(7\), Care Act 2014](#).
- 6.1.3 One particular agency might not be a data controller, in these circumstances as the key factor is whether the agency exercises control over the processing of that person’s personal data.

6.2 Care Act 2014, Section 6 (7) defines a ‘Relevant partner’ to be:

- 6.2.1 Each of the following is a relevant partner of a local authority—
- where the authority is a county council for an area for which there are district councils, each district council;
 - any local authority, or district council for an area in England for which there is a county council, with which the authority agrees it would be appropriate to co-operate under this section;
 - each NHS body in the authority’s area;
 - the Minister of the Crown exercising functions in relation to social security, employment and training, so far as those functions are exercisable in relation to England;
 - the chief officer of police for a police area the whole or part of which is in the authority’s area;
 - the Minister of the Crown exercising functions in relation to prisons, so far as those functions are exercisable in relation to England;
 - a relevant provider of probation services in the authority’s area;
 - such person, or a person of such description, as regulations may specify.
- 6.2.2 The ‘Relevant partner’ who receives the information relating to the concern or allegation is expected to –
- Escalate the concerns to Senior Leaders within their own agency/organisation to consider if the information indicates that any immediate risk management actions are needed.
 - A risk assessment must be completed to reflect the discussion and identified risks including any rationale for action taken or information being shared.
 - Consider whether the allegation or concern(s) indicates a criminal offence has occurred or may occur. If so, the allegation or concern must be reported to the Police; early liaison with Police should take place to agree next steps and to avoid contamination of evidence; if a criminal investigation is required, this may take primacy over an agency or organisation’s internal investigation.
 - If the concerns are relating to an adult with care and support needs, it should be reported as a safeguarding concern via the local safeguarding processes.

[Safeguarding adults•Salford City Council](#)

- **If it involves as child** - refer to the relevant Local Authority LADO where the information indicates the person also works with and could pose a risk of harm to children. ([Managing allegations against adults who work with children | Salford Safeguarding Children Partnership](#))

- Make a decision whether the information should be disclosed to the person in a Position of Trust employer.
- When making a decision, consider any known history of conduct, complaints, cautions or convictions that may be relevant to the potential risk.
- If disclosing, manage this disclosure in line with legal and best practice requirements for information sharing. The Care and Support Statutory Guidance states that local authority’s relevant partners, and agencies providing universal care and support services should have clear policies in line with those from the safeguarding adults board to deal with this area of activity. Some agencies may have well established protocols for sharing information in these types of circumstance – such as the [Common Law Police Disclosure](#) process – whereas other agencies may not deal with these issues on a frequent basis and may need to have senior management oversight, and gain legal advice as required, on a case by case basis.
 - Where a disclosure is made, notify the relevant service commissioners and regulatory agencies,
 - Record the information and decisions clearly, including the rationale for any decision made.
 - Records should be maintained in line with internal agency record keeping policies and requirements.

6.3. Employers, student bodies, voluntary, community or social enterprise organisations

6.3.1 Any employer, student body, voluntary, community or social enterprise organisation who is responsible for a person in a Position of Trust where such concerns are raised about someone who works or volunteers with adults with care and support needs, it will be necessary for the employer (or student body or voluntary organisation) to assess any potential risk to adults with care and support needs who use their services, and, if necessary, to take action to safeguard those adults by:

- Senior Leaders, Human Resources (HR) within the organisation and any governing bodies should be made aware,
- Respond in individual cases where concerns are raised about people working in a Position of Trust, ensuring that the risk is assessed, investigated where appropriate through internal employment processes, and that risk management actions are identified and implemented as appropriate to the individual case,
- Ensure all adult or child safeguarding concerns that result from a concern about a Position of Trust are reported,
- Where appropriate, notify and refer to external agencies; to the Care Quality Commission (CQC) (where the person in a Position of Trust is working or volunteering in a CQC regulated organisation), statutory and other bodies responsible for professional regulation (such as the General Medical Council and the Nursing and Midwifery Council, The Charity Commission) and the Disclosure and Barring Service (DBS),
- Provide feedback at regular intervals to the relevant Local Authority (if there is a related safeguarding enquiry) and to their commissioning agency (if they have one)
 - Ensure the safety and protection of adults with care and support needs is central to their decision making,
 - Employers, student bodies and voluntary organisations should have clear procedures in place setting out the process, including timescales, for investigation and what support and advice will be available to individuals against whom allegations have been made. Any allegation against people who work with adults should be reported immediately to senior manager within the organisation. Employers, student bodies and voluntary organisations should have their own sources of advice (including legal advice) in place for dealing with such concerns.
 - Share information in line with these procedures where it is known the person in a Position of Trust also has other employment or voluntary work with adults with care and support needs or children.

- If an organisation removes an individual (paid worker, student or unpaid volunteer) from work with an adult with care and support needs (or would have, had the person not left first) because the person poses a risk of harm to adults, the organisation must make a referral to the Disclosure and Barring Service. It is an offence to fail to make a referral without good reason. For full details of when to refer an individual to the DBS and referral when the situation does not meet the legal duty please visit the [DBS website](#)
- At the conclusion of any Position of Trust enquiries, consider if the findings demonstrate evidence of a theme or pattern in the context of past and historic position of trust concerns; identify potential themes or system wide issues within the organisation; and ensure that appropriate action is taken by their organisation so that learning from past events is applied to reduce the risk of harm to adults with care and support needs in the future.
- Record the information and decisions clearly, including the rationale for any decisions made.
- Records should be maintained in line with internal agency record keeping policies and requirements.
- Annual assurance will be requested from the Salford Safeguarding Adult Board (SSAB) regarding the number of referrals dealt with in a reporting year including themes and trends identified through the investigation process.

6.3.2 Service commissioners and regulators are expected to:

- Use their contract compliance and regulatory processes to ensure that service providers have the right internal policy and procedural frameworks, and respond appropriately to manage risk in individual cases,
- Monitor the activities of commissioned services in their compliance of this Framework.
- Record the information and decisions clearly, including the rationale for any decision made.
- Records should be maintained in line with internal agency record keeping policies and requirements.

6.4.1 Salford Safeguarding Adult Board (SSAB)

6.4.1 Each partner agency needs to provide assurance to the Safeguarding Adult Board (SAB) that arrangements within their organisation to deal with allegation against people in a position of trust are functioning effectively.

6.4.2 Data will be requested from partner agencies to enable the SSAB to have oversight and to evaluate the effectiveness of the safeguarding arrangements.

Process for managing concerns and allegations against a person in a position of trust who work with adults with care and support needs.

Concerns can be identified or raised in different ways. For example:

- Concern raised through professional/agency duties.
- Member of the public or other 3rd party informs the professional/agency
- Concern is raised through adult safeguarding concern/enquiry
- Information shared by [LADO through Children's processes](#)

If a concern or allegation about a person in a position of trust is identified or received by a relevant partner/agency (as defined in [Section 6 \(7\), Care Act 2014](#)), or any agency providing universal care and support services.

That relevant partner/agency is now identified as the **DATA CONTROLLER**

If an adult with care and support needs is in immediate risk of harm or danger, call the police or other emergency services via 999.

Action to be taken by 'RELEVANT PARTNER/AGENCY' (the Data Controller):

If there is **no immediate risk of harm or danger** – the relevant partner/agency (the data controller) must review the nature of the allegation or concern and assess any potential risks the person in the position of trust poses to adults with care and support needs. This will inform the decision to whether the information should be disclosed to the person in the position of trust employer (or volunteering manager). The 'relevant partner' (the data controller) may or may not be the employer of the person in position of trust. Always take into consideration the **Legal Framework (reference in Section 5)** and the **Key Role and Responsibilities (section 6)**.

Decision to disclose:

If the 'relevant partner/agency' (data controller) decides to disclose due to the nature of the concerns or risks identified relating to the person in a position of trust, consideration needs to be given to:

If an alleged crime has been committed, the police need to be informed immediately (via 999).

If the allegation/concern relates to an adult with care and support needs, the relevant partner (the data controller) should follow local safeguarding policy and procedures and report a safeguarding concern. ([Worried About An Adult | Salford Safeguarding Adults Board](#))

Allegation against people who work with adults at risk must not be dealt with in isolation.

***Please note** – depending on the nature of the allegation/concern and identified risks, there maybe different processes it could be managed under:

- Criminal investigation led by the Police.
- Care Act Duty to safeguard under S42 led by ASC/GMMH on behalf of the Local Authority
- or an internal investigation by the employer under the local Human Resources Policy and Procedures.

Decision NOT to disclose:

The 'relevant partner/agency (data controller)' makes a clear record giving the rationale of why the information has not been shared.

No further action is needed.

Action to be taken by the EMPLOYER (or volunteering manager)

- Support the Criminal Investigation/Care Act S42 Safeguarding Enquiry
- The employer should complete a risk assessment regarding the member of staff. The employer should seek HR advice, to whether the member of staff needs to be suspended from their role or alternatives duties need to be identified until the necessary enquires/investigation have been completed.
- When deemed appropriate, and other parallel processes have been completed, the allegations should be investigated through the employers internal processes and any new information regarding safeguarding concerns of an adult should be reported back through [Salford Safeguarding Policy and Procedures](#).
- Take risk management actions as appropriate e.g. increased supervision or monitoring, disciplinary or dismissal; referrals to other agencies – Disclosure and Barring Service (DBS) and any professional bodies e.g. the GMC, Social Work England, Nursing and Midwifery Council etc. ***please note – it is an offence to fail to make a referral to DBS without good reason***
- Consider making a notification of the disclosure to the relevant commissioning agency/professional bodies and / or regulator - e.g. – NHS GM Integrated Care Board when the employee/volunteer is employed in the NHS, Local Authority when employed in a commissioned social care provider service, CQC when employed in a CQC regulated service, - OfSTED when employed in an OfSTED regulated service.
- **If the person in a position of trust has 2nd employment within another health and social care setting, careful consideration regarding Data Protection and GDPR needs to be given to whether that employers needs to be made aware of the concerns/allegation/risks.**

Role of the Commissioning and Regulatory Services

To check/oversee employer actions as part of regulatory and contract monitoring processes

7. Case Examples

Case Example 1

- **Female experiencing domestic abuse, has children and works as a care assistant in a care home for adult with care and support needs.**

A 39-year-old woman is subject to longstanding domestic abuse risk from her partner. Children's Services become involved due to potential impact on the couple's children.

As part of their assessment they identify that the woman works as a care assistant in a care home for older people with dementia.

Children's Services consider the 'adult position of trust' issues and framework.

Children's Services are the data controller and think through whether they have a duty to make a disclosure to the woman's employer.

Children's Services decide that **disclosure is not proportionate in this situation** – the woman is in a very difficult domestic situation, is engaging well with Children's Services to take steps to protect her children, and there is no evidence that either she or the abuse in her relationship would pose a likely risk of harm to the adults in the care home where she works.

Children's Services have a discussion with the woman and inform her that they will not be disclosing information to her employer but encourage her to tell her employer herself. The woman agrees to inform her employer about her home situation so that her employer can make a risk assessment and provide support for her in the work environment.

Support should be offered to the woman regarding the domestic abuse.

Case Example 2

- **Doctor arrested for historical child sex offence**

A doctor employed in an NHS hospital is arrested by Police for historical child sex offences. The doctor works with a range of adults in their role, some of whom will have needs for care and support.

The Police is the data controller and decide they do need to disclose the information to the NHS Hospital Trust as the employer of the doctor. The Police inform the NHS Hospital Trust about the arrest for historical child sex offences and notify the Care Quality Commission as regulator and the NHS Greater Manchester Integrated Care Board (ICB) as the commissioner of the hospital trust.

The NHS Hospital Trust acts on the information and decides to suspend the doctor immediately. Their disciplinary process is placed on hold while the Police investigation progresses.

Case Example 3

- **Safeguarding concern is received regarding a woman and the concerns relate to her daughter allegedly physically and emotionally abusing her. The woman's daughter works as a carer for a homecare agency supporting people in the community on another area.**

Salford Adult Social Care receive an adult safeguarding concern from a neighbour of an older woman who lives in Salford. The concern relates to allegations that the woman's daughter is abusing her mother both physically and emotionally.

Salford Adult Social Care make enquires under Section 42 of the Care Act 2014, and as their enquires progress, they find out that the daughter lives and works in Bolton. The daughter works as a carer for a home care agency providing support to people who live in the community.

Salford Adult Social Care are the data controller and decide that – due to the nature of the cruel treatment alleged, that the daughter works with people of a similar age to her mother, and that she works unsupervised with people in their own homes – **they do need to disclose the information and allegations to the daughter's employer.**

By this stage of their enquires, the daughter is aware that concerns have been raised about the way she treats her mother, **so Adult Social Care try to engage directly with the daughter to provide her with an opportunity to disclose herself to her employer, or to gain consent to share the information. The daughter refuses to do this, so Adult Social Care informs the daughter that they are sharing the information without her consent and make the disclosure directly to the registered manager of the homecare agency.**

Salford Adult Social Care notify Bolton City Council and the Care Quality Commission (CQC). Bolton Council and the Care Quality Commission (CQC) can follow up the issue with the home care agency (under contract compliance/regulatory processes) to gain assurance that the agency has risk assessed the issue properly and managed the identified risks to the public.

Case Example 4

- **An adult with care and support needs discloses to a professional that their support worker had previously physically assaulted them.**

An adult with care and support needs, is visited by their mental health care co-ordinator and explained that number of weeks ago, his support worker (from a different service) had punched him in the face after a disagreement. There was no evidence of bruising or injury.

At this stage, the **Mental Health Trust will be the data controller.**

The mental health co-ordinator should seek advice from their line manager/safeguarding lead and review the allegation/concerns/risks and make a decision to whether further action needs to be taken including the information being disclosed to the staff member employer/or organisation they are volunteering for.

Due to the nature of the allegation (physical assault) - a decision is made that information **needs to be disclosed.**

Due to the nature of the allegation, it should be reported to the police due to a criminal offence may have been committed.

The mental health worker should follow their local safeguarding policy/procedure and report the allegation as a safeguarding concern.

It is good practice for the adult with care and support needs to be advised what action is being taken and they are asked what they would like to happen. However, information can be shared (with or without consent) because there is a duty to safeguard other adults who receive a support from the service that the staff member works within.

A Safeguarding Planning Meeting should be held at the earliest opportunity with the key partners attending (including the police and the employer of the staff member).

The employer should complete a risk assessment regarding the member of staff. The employer should seek HR advise and support to whether the member of staff needs to be suspended from their role or alternatives duties need to be identified until the necessary enquires/investigation have been completed.

The S42 safeguarding enquiry will take the lead (unless there is evidence for a criminal offence and the Police will lead the investigation).

Further document to be referenced

[ADASS top tips for Directors on dealing with Allegations against people in position of trust \(PiPoT\)](#)