

MANAGING CONCERNS AROUND PEOPLE IN A POSITION OF TRUST (PIPOT)

Pan Lancashire Safeguarding Adults Board Policy

*Version 1
Agreed 3 April 2019*

Introduction

The following policy has been developed as part of the Pan Lancashire Multi Agency Adults Safeguarding Policy and Procedures in line with national guidance and current data protection legislation and the North West Policy of the same name which has been approved by ADASS (Association of Adult Directors of Social Services).

Following its initial draft a task and finish group was convened to have oversight of the policy to ensure it meets the requirements of Lancashire's partners but remains compliant with the above. A list of representatives at this group can be found at the end of this introduction.

This is an overarching policy which partners/organisations should use in its entirety, but may customise to meet their needs or develop their own policy and procedures which much be reflective of this policy.

This policy changes the way in which current concerns are managed through the Adult LADO process therefore it is imperative that all partners are aware of the impact it will have. It should be noted that for smaller organisations e.g. within the voluntary, community and faith sector there has already been agreement for the Local Authority to lead on PiPoT investigations.

Following agreement by the task and finish group it is being presented to the Pan Lancashire Safeguarding Boards for final ratification and agreement of an implementation timeframe which will be carried out with the assistance of the Board Managers.

Task and Finish Group Representatives:

- Adults Safeguarding Board Managers
- Adult Social Care Lead
- Adult Safeguarding Teams
- Lancashire Constabulary
- Clinical Commissioning Groups
- Lancashire Care Association
- Information Governance
- Legal Team
- Providers
- Voluntary sector

Pan Lancashire Managing Concerns around People in a Position of Trust (PiPoT)

Care and Support Guidance¹ established the requirement that all relevant Safeguarding Adult Board (SAB) partners (employers, student bodies and voluntary organisations) should have policies and procedures in line with those of Safeguarding Adults Boards for responding to concerns against any person who works with adults, in either paid or unpaid capacity, in positions of trust. This applies to all organisations commissioned to provide services by them, so they respond appropriately to allegations made.

There should be a clear distinction between:

- A concern/allegation about abuse or neglect by a professional, or volunteer – this should be managed via these procedures
- A concern about the quality of care or practice provided by the person in a position of trust, that do not meet the criteria for a safeguarding enquiry – these should be raised as quality issues initially to management within the organisation

Or a complaint – these need to be dealt with via the organisations own complaints procedure can be considered to be in a ‘position of trust’ where they are likely to have contact with adults with care and support needs as part of their employment or voluntary work, and

- Where the role carries an expectation of trust and
- The person is in a position to exercise authority, power or control over an adult(s) with care and support needs (as perceived by the adult themselves).

Positions of trust may include, but are not limited to any staff working on behalf of:

- Social care
- Health services
- Police and criminal justice
- Housing
- Education
- Advocacy
- GPs
- Independent Sector
- Agency and Bank Workers
- Religious/Faith Leaders
- Commissioning Services

Safeguarding Adults Boards

This process provides the framework for how concerns and allegations against people working with adults with care and support needs should be notified and responded to. There are occasions when incidents are reported that do not involve adults with care and support needs, but indicate, nevertheless, that a risk may be posed to adults with care and support needs by a person in a position of trust.

This process provides assurance to the Pan Lancashire and Cumbria Safeguarding Boards that all relevant partners:

¹ This has since further been updated in 2018

- Respond to concerns raised and balance the rights of individuals to who concerns have been raised
- Share information based on the principles of justification and proportionality
- Work closely with other relevant partners, Position of Trust Leads and Childrens Local Authority Designated Officer (LADO).

For the remainder of this policy a 'concern' relates to either a concern and/or an allegation and 'people in a position of trust' will be referred to as PiPoT

Safeguarding

Where such concerns are raised about someone who works with adults with care and support needs, it will be necessary for partners to assess any potential risk to other adults who use their services and, if necessary, to take action to safeguard those adults using the Pan Lancashire Multi Agency Adults Safeguarding Procedures and guidance documents:

www.lsab.org.uk/policies

Local guidance to aid decision making for raising a safeguarding concern:

- Blackburn with Darwen: <http://www.lsab.org.uk/wp-content/uploads/LSAB-Continuum.pdf>
- Blackpool: <https://www.blackpoolsafeguarding.org.uk/assets/uploads/Decision%20Making%20Tool%202017.pdf>
- Lancashire: <http://www.lancshiresafeguarding.org.uk/lancashire-safeguarding-adults/resources/guidance-for-safeguarding-concerns.aspx>

Examples of such concerns could relate to a person who works with adults with care and support needs who 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
- their conduct has raised concern as to their suitability to act in a position of trust

Partner agencies and the service providers they commission are individually responsible for ensuring that information in relation to PiPoT concerns are shared and escalated outside of their organisation in circumstances where this is required and it should be, proportionate and appropriate with decisions made on each individual case. Both the General Data Protection Regulations and Data Protection Act recognise that safeguarding takes precedence in these circumstances.

Partner agencies and their commissioned services should have clear recording and information sharing guidance, set explicit timescales for action and be aware of the need to preserve evidence.

Whilst concerns may be raised through safeguarding processes about PiPoT it may come to light through many routes, including complaints, regulatory inspections, audits and quality systems, staff grievances, so called whistleblowing, social media, disciplinary and performance procedures. Organisations must have effective systems for identifying

allegations from these different sources and the organisation's safeguarding lead(s) (covering both children and adults) must be informed about any safeguarding concerns relating to people in a position of trust.

As well as the responsibility for the safety of adults with care and support needs, employers also have a duty of care to their employees. They should ensure they provide effective support for anyone facing an allegation and provide the employee with a named contact if they are suspended. It is essential that any allegation of abuse made against a member of staff or volunteer is dealt with very quickly, in a fair and consistent way that provides effective protection for the adult and, at the same time, supports the person who is the subject of the concern.

Initial Response to a Concern

Any allegations against a PiPoT must be raised with the Lead responsible for the employee when the conduct of the person may impact upon their suitability to work with adults with care and support needs. The process would be as follows:

- contact to be made within own agencies relevant Position of Trust Lead (or equivalent e.g. Safeguarding Lead)
- the Position of Trust Lead/Safeguarding Lead will assess the information provided and undertake the necessary enquires within an a specific time frame agreed by the agency
- Each agency's own policies/procedures will dictate human resources and escalation procedures
- Where information is received regarding other relevant partners employees then the receiving Position of Trust Lead/Safeguarding Lead will advise the Position of Trust Lead/Safeguarding Lead of the responsible relevant partners
- If the person works with both adults and children the Local Authority Designated Officer will also be informed.

Where an allegation has been made or a concern raised that abuse or neglect may be taking place then a Section 42 safeguarding adults referral will be made to the relevant Adult Social Care Team / Safeguarding Team under Pan Lancashire and Cumbria Adults Safeguarding Policy and Procedures in respect of the alleged victim. At the point a safeguarding concern is raised, there will need to be a discussion between the Position of Trust Lead/Safeguarding Lead and other identified leads (such as Human Resources, Safeguarding Team, Police etc.) to determine the actions to be taken as part of and separate to the safeguarding enquiry (for example criminal investigation may take precedence over internal disciplinary processes initially). This is described as a Strategy Discussion/Meeting. This will be determined on a case by case basis locally.

It is the responsibility and duty of the employer to inform the alleged perpetrator of the allegation and what information will be recorded about them, following the outcome of the Strategy Discussion/Meeting – in some cases it may not be appropriate to immediately inform

the alleged perpetrator in order to avoid compromise of a criminal investigation or potential corruption of evidence.

In the event the allegation being against a carer who is also a family member this too should be considered through safeguarding adults procedures as whilst there is a duty to protect the adult at risk, there is also a duty to assess the needs of the carer and using the principles of Making Safeguarding Personal for both victim and alleged abuser. In such a case discussion between the Safeguarding Leads, PiPoT lead within the Local Authority is paramount as to the best course of action.

If an organisation does not have a PiPoT Lead or Safeguarding Lead, for instance the person with whom the concern is against is providing voluntary contribution but is not commissioned by a relevant partner – then the PiPoT Lead within the Local Authority will make arrangements with the PiPoT Lead from statutory relevant partners to coordinate any enquires and investigation required.

Criminal allegations

If a criminal investigation is being undertaken in relation to an individual's conduct in their private life a decision will be undertaken by the local constabulary whether to inform the employing agency under the Common Law Police Disclosure Scheme. Any historical concerns or concerns against a person who no longer works with adults should be referred to the police in the first instance. The police will liaise with the appropriate organisations as part of any investigation.

Confidentiality

It is extremely important that when an allegation is made the employer makes every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.

Information Sharing

As previously highlighted relevant information should be shared in line with local information sharing agreements in respect of concerns raised.

Outcomes of Investigations

Whilst it is recommended the following definitions are to be used when determining/recording the outcome of a concern against a PiPoT it should be noted that these may be similar to outcomes recorded for safeguarding concerns within the local authority but they should not be confused with the same:

- **Substantiated:** there is sufficient evidence to prove the allegation
- **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term therefore does not imply guilt or innocence
- **Unfounded:** to reflect cases where there is no evidence or proper basis which supported the allegation being made. It may also indicate that the person making the allegation

misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances

- **False:** there is sufficient evidence to disprove the allegation
- **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive. Disciplinary action should be considered against the person who made the allegation or whether the police should be asked to consider if action might be appropriate against the person responsible

Allegations Record Keeping

Partners PiPoT policy/procedures should reflect the need to keep a summary of the concerns/allegations, details of how it was followed up and resolved and a note of actions taken and decisions reached. This may essentially be in line with for example disciplinary procedures, and a copy will be kept in the individual's personnel records and a copy provided to them.

If emails are sent about any allegations consideration needs to be given as to who is copied in and this should be strictly limited in most cases on a "need to know" basis.

There should be no names of alleged perpetrators on the records of the alleged victim.

All information about PiPoT cases should be held securely and not on an open system. It is important to retain allegations records to enable accurate information to be given in response to future reference requests where appropriate. It will provide clarification in cases where future Disclosure and Barring Service (DBS) checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help unnecessary re-investigation if a concern re-surfaces after a period of time.

It is also recognised that adults with care and support needs may raise concerns which are later found to have no substance, in these cases organisations should follow their own internal procedures as to how this is recorded and retained.

Retention of personnel records in relation to the above should be agreed locally within each organisation and based on national and legal guidance.

Cases in which allegations are proven to be false, unsubstantiated or malicious should not be included in employer references.

There is a legal requirement for employers to make a referral to the DBS and professional bodies where they think an individual has engaged in conduct that harmed (or is likely to harm) a person and they are in regulated activity, or if a person otherwise poses a risk of harm to another person.

Please find some links below:

- Disclosure and Barring Service: <https://www.gov.uk/government/collections/dbs-referrals-guidance--2>
- Health and Care Professionals Council: www.hcpc-uk.co.uk
- Nursing and Midwifery Council: www.nmc.org.uk
- General Medical Council: www.gmc-uk.org
- General Dental Council: www.gdc-uk.org

Oversight and Monitoring

Each partner agency, in their assurance to their SAB (e.g. annual statements), will be required to provide assurance that arrangements to deal with allegations against a person in a position of trust within their organisation are adequate and functioning effectively. They will need to be able to provide evidence that they have nominated a lead PIPOT person to manage allegations. The SAB will in turn maintain oversight of whether these arrangements are considered to be working effectively between, and across partner agencies in the local authority area. Appropriate cross organisational challenge should be possible as it is an important part of this process.

Multi-Agency Concerns Management: Positions of Trust

