



Wigan Safeguarding Adults Board

Policy for Responding to Allegations against a Person in a Position of Trust (PIPOT)

September 2022

Introduction

This policy statement relates to those circumstances where the Local Authority is alerted to information that may affect the suitability of a person to work with an adult in need of care and support (adult(s) at risk), even where such information has originated from activity outside of their working role and place of work. The alleged victim, in such circumstances, does not have to be an adult at risk, for example, it could be their partner, young person under 18 years of age. This document relates to allegations that may have risk implications to the employment or voluntary work, of a person in a position of trust (PIPOT).

The purpose of this document is to ensure that there is a consistent and transparent response to PIPOT referrals and that appropriate risk management action is taken. Any action taken is the result of comprehensive decision making which is measured against the legal framework, the duty of care and the associated public risk. Consultation will take place with the Legal Department of Wigan Council prior to any sharing of personal and sensitive data in the public sector.

The Legal Framework

The Care Act 2014 statutory guidance chapter

14.120 The local authority's relevant partners, as set out in section 6 (7) of the Care Act, and those providing universal care and support services, should 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. Such policies should make a clear distinction between an allegation, a concern about the quality of care or practice or a complaint.

14.121 Safeguarding adult's boards need to establish and agree a framework and process for how allegations against people working with adults with care and support needs (for example, those in positions of trust) should be notified and responded to. Whilst the focus of safeguarding adults work is to safeguard one or more identified adults with care and support needs, there are occasions when incidents are reported that do not involve an adult at risk, but indicate, nevertheless, that a risk may be posed to adults at risk by a person in a position of trust.

14.122 Where such concerns are raised about someone who works 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.

14.123 Examples of such concerns could include allegations that 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

14.124 When a person's conduct towards an adult may impact on their suitability to work with or continue to work with children, this must be referred to the local authority's designated officer.

14.125 If a local authority is given information about such concerns, they should give careful consideration to what information should be shared with employers (or student body or voluntary organisation) to enable risk assessment.

14.126 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 a 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.

14.127 If an organisation removes an individual (paid worker 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.

14.128 Allegations against people who work with adults at risk must not be dealt with in isolation. Any corresponding action necessary to address the welfare of adults with care and support needs should be taken without delay and in a coordinated manner, to prevent the need for further safeguarding in future.

14.129 Local authorities should ensure that their safeguarding information and advice services are clear about the responsibilities of employers, student bodies and voluntary organisations, in such cases, and signpost them to their own procedures and legal advice appropriately. Information and advice services should also be equipped to advise on appropriate information sharing and the duty to cooperate under Section 6 of the Care Act.

14.130 Local authorities should ensure that there are appropriate arrangements in place to effectively liaise with the police and other agencies to monitor the progress of cases and ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process.

14.131 Decisions on sharing information must be justifiable and proportionate, based on the potential or actual harm to adults or children at risk and the rationale for decision-making should always be recorded.

14.132 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

Examples given are that a person 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 risk of harm to adults with care and support needs

When a person's conduct towards an adult may impact on their suitability to work with or continue to work with children, this must be referred to the Local Authority Designated Officer (LADO).

It further states that if a local authority is given information about such concerns, they should give **careful consideration to what information** should be shared with employers (or student bodies or voluntary organisations).

In addition to the Care Act 2014, Local authorities have a duty to implement government guidance to protect those adults who may be vulnerable to abuse or neglect. Disclosing relevant information to reduce the risk of abuse and in the wider public interest is therefore a key responsibility.

There are additional existing pieces of legislation and guidance which place a duty of care on the Local Authority to protect adults at risk, these include:

- Information Sharing
- Employee Rights
- General Data Protection Regulations 2018
- Human Rights Act 1998
- The Vulnerable Groups Act 2006
- **Domestic Abuse Act (2021)**
- Crime & Disorder Act 1998

What this means in practice; is working through a process of risk assessment to evaluate if the intervention is in the best interest of adults at risk, and/or in the wider public interest.

The risk assessment will also determine what action should be taken by agencies where there are concerns about abuse, particularly in those situations when other, vulnerable adults, children or young people may be at risk. This may mean that absolute confidentiality cannot be maintained due to the wider public interest. Such sharing of information must be lawful, proportionate and justified. Local Authorities are responsible for making the judgment that this is the case in every instance where they are the data controller and have made the decision to disclose.

Employment

In any case of an upheld complaint or allegation, particularly where this involves professional malpractice, the lead agency should ensure that relevant agencies and professional bodies are appropriately informed.

If, following an investigation a Person in a Position of Trust is removed, by either dismissal or permanent redeployment, to a non-regulated activity because they pose a risk of harm to adults with care and support needs, (or would have, had the person not left first), then the employer (or student body or voluntary organisation), has a legal duty to refer the person to the Disclosure and Barring Service (DBS). It is an offence to fail to make a referral without good reason. In addition, where appropriate, employers should report workers to the statutory and other bodies, responsible for professional regulation such as, The Health and Care Professions Council, General Medical Council, the Nursing and Midwifery Council, the Teaching Regulation Agency and Social Work England.

If a person subject to the PIPOT process attempts to leave employment by resigning in an effort to avoid any investigation or disciplinary process, the employer (or student body or voluntary organisation) is entitled not to accept that resignation and conclude whatever process has been utilised with the evidence before them. If the investigation outcome warrants it, the employer can dismiss the employee or volunteer instead and make a referral to the DBS. This would also be the case where the person intends to take up legitimate employment or a course of study