



Wigan Safeguarding Adults Board

Policy for Responding to Allegations against a People in a Position of Trust

September 2018

Introduction

This policy statement relates to those circumstances where the Local Authority is alerted to information that may affect the suitability of a professional, or volunteer to work with an adult in need of care and support (adult(s) at risk), even where such information has originated from activity outside their professional or volunteer 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) or a child. This document refers to allegations that may have risk implications in relation to the employment or volunteer work of a person in a position of trust (PiPoT).

The purpose of this document is to ensure that there is a consistent and auditable response to referrals and that appropriate risk assessments and risk management actions are completed. Any action taken is the result of sound decision making and measured against both the legal framework, the duty of care and the wider public interest, therefore consultation needs to take place both with the Legal Department of Wigan Council and the Council's Caldicott Guardian prior to any sharing of personal and sensitive data in the public sector.

The Legal Framework

Paragraph 14.120 to 14.132 of the Statutory Guidance made pursuant to the Care Act 2014 states that the local authority, and its relevant partners and those providing universal care and support services, should have clear policies for responding to allegations against people who work in a position of trust, either in a paid or unpaid capacity with adults with care and support needs.

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
- The Domestic Violence, Crime & Victims Act 2004 (Amendment 2012)
- 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

(North West Policy for Managing Concerns around People in Positions of Trust with Adults who have Care and Support Needs 2018)

Employment

In any case of an upheld complaint or allegation, particularly where this involves professional malpractice, the lead agency should ensure that relevant agencies / 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 and the Nursing and Midwifery Council.

If a person subject to a PiPoT investigation, attempts to leave employment by resigning in an effort to avoid the 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 (North West Policy for Managing Concerns around People in Positions of Trust with Adults who have Care and Support Needs 2018).