

# Bury Safeguarding Partnership

## Bury Safeguarding Adults Board Allegations Management Policy Persons in Position of Trust (PiPoT)

A framework and process for responding to allegations and concerns against people working with adults with care and support needs

# 1. Summary – about this document

- 1.1. The Care Act 2014 introduced a single new statute to replace most existing adult social care law. The Care and Support Statutory Guidance formalised the expectations on local Safeguarding Adults 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.
- 1.2. While the primary focus of Adult Safeguarding work is to safeguard adults with care and support needs, there will be occasions where a risk or potential risk may be posed by a person who works with adults with care and support needs, but where there is no specific adult at risk identified. 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.
- 1.3. This document provides a high-level, overarching framework for Bury 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.
- 1.4. This document is directed at agencies and individuals who are “relevant partners” as defined in Section 6 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.
- 1.5. This document should be read alongside Bury Adult Safeguarding Policy and Procedures, and relevant local information sharing protocols.

# 2. Background

- 2.1. The Care and Support Statutory Guidance formalised the expectations on local safeguarding adult’s 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.
- 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 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. 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 accord with any relevant statutory provision, for example, Data Protection Act 1998, Human Rights Act 1998 and employment legislation.
- 2.5. Allegations against people who work with adults **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.
- 2.6. The Care Act 2014 Statutory Guidance also requires that 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.
- 2.7. The Care Act 2014 Statutory Guidance reinforces the requirement that 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.**

### 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,
  - where those 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 took place either within or outside of the work environment and 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 or children and if that is the case, to consider whether information should be shared with the current employer.
- 3.4. The policy 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, competence or representations 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 in line with statutory provision.
- 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 to do so will endanger an adult with care and support needs or child. 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.

## 5. Confidentiality

- 5.1. 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.

When sharing information about adults, children and young people at risk between agencies it should be shared. If you are sharing information to protect or manage risk of adults or children under the protection of safeguarding then please contact your managers if required.

- 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.

### 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 introduce 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”<sup>9</sup>, 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 child) at risk.

## 6. Key roles and responsibilities

### 6.1 Safeguarding Adults Board

- 6.1.1 Safeguarding Adults Boards need to establish and agree a framework and process, for how concerns and allegations against people working with adults with care and support needs (i.e. those in positions of trust) should be notified and responded to. Whilst the focus on 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.
- 6.1.2 Each partner agency, in their annual assurance statement to the SAB, 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 are functioning effectively. 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.

### 6.2 Local Authority

- 6.2.1 The Local Authority relevant partners, are set out in section 6 (7) of the Care Act 2014.
- 6.2.2 Pursuant to the Care Act 2014 there is a requirement that Safeguarding Adults Boards for local authorities, should establish and agree a framework and process for any organisation to respond to allegations against anyone, who works in either a paid or unpaid capacity with adults with care and support needs.

### 6.3 Partners

- 6.3.1 Employers, student bodies and voluntary organisations, should have clear and accessible policy and procedures in place setting out the PiPoT process. These should determine who should undertake an investigation and include timescales for investigation and include how support and advice will be made available to individuals against whom allegations have been made. Individuals should also be made aware of their rights under employment legislation and any internal disciplinary procedures.
- 6.3.2 Any allegations 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 source of advice (including legal advice) in place for dealing with such concerns.

- 6.3.3 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 safeguarding those adults.

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

## 6.4 Children

- 6.4.1 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). Where concerns have been identified about their practice and they are a parent/carer for children, then consideration by the Data Controller should be given to whether a referral to Children's Services is required.

## 6.5 The Data Controller

- 6.5.1. If an organisation is in receipt of information, that gives cause for concern about a person in a position of trust, then that organisation should give careful consideration as to whether they should share the information with the person's employers, (or student body or voluntary organisation), to enable them to conduct an effective risk assessment. The receiving organisation becomes the Data Controller as defined by the Data Protection Act 2018 and GDPR; Article 4.
- 6.5.2 The Data Controller is the organisation or individual who first becomes aware of the allegation or concern. The Data Controller is considered to be the owner of the information and has responsibility for taking appropriate action i.e. risk assess and decide whether disclosure to other bodies should be made. The owner of the information is expected to:
- On receipt of this information if it indicates that any immediate risk management actions are needed, a safeguarding referral into adult social care should be made. Risk assessment must be completed to reflect the discussion and identified risks.
  - On receipt of this information if the allegation or concern 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.



- 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.
- Make a decision whether the information should be disclosed to employer.
  - When making a decision, and if known, consider any known history of conduct, complaints, cautions or convictions that may be relevant to the potential risk. Note if the employer holds this information, then this is not a PIPOT matter, and the relevant organisational procedures should be followed.
  - 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. 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.
- 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.

## 6.6 Employers, student bodies, or voluntary organisations

6.6.1. Any employer, student body, or voluntary organisation who is responsible for a person in a Position of Trust where there is a concern or allegation raised are expected to:

- 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 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 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 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<sup>14</sup>. 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 decision made.
- Records should be maintained in line with internal agency record keeping policies and requirements.
- Annual assurance will be requested from the Bury Safeguarding Adult Board (BSAB) regarding the number of referrals dealt with in a reporting year including themes and trends identified through the investigation process.

## 6.7 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.

## 6.8 Bury Safeguarding Adults Board

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

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

## 7. Single Agency Contacts

Local Authority PiPoT lead: [PIPOT@bury.gov.uk](mailto:PIPOT@bury.gov.uk)

GMP: [bury.publicprotection@gmp.police.uk](mailto:bury.publicprotection@gmp.police.uk)

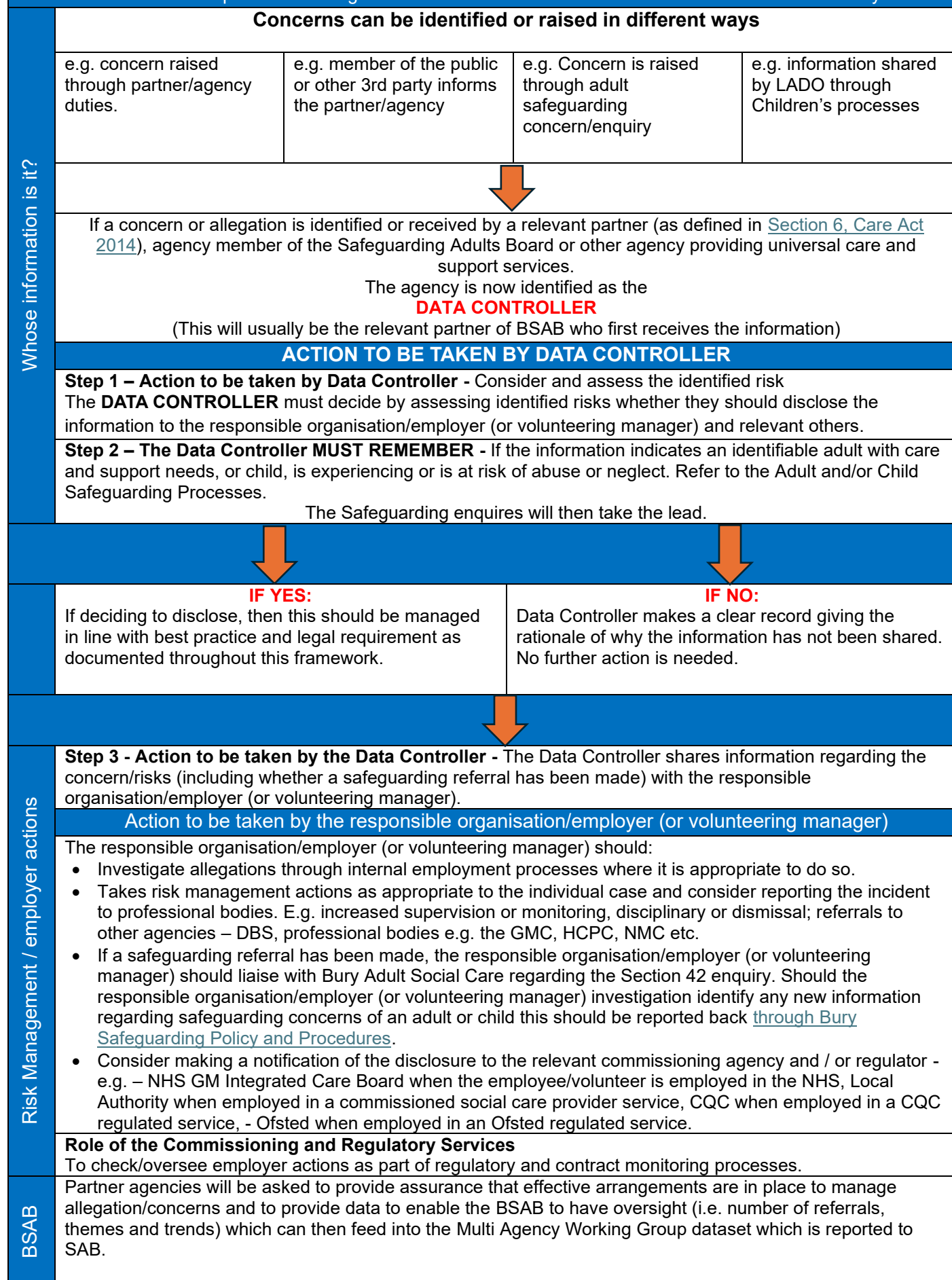
NHS Greater Manchester Integrated Care Board: [gmicb-bu.safeguarding@nhs.net](mailto:gmicb-bu.safeguarding@nhs.net)

Pennine Care: [pcn-tr.referralssafeguarding@nhs.net](mailto:pcn-tr.referralssafeguarding@nhs.net) or telephone 0161 716 3785

Northern Care Alliance: [NCA.AdultSafeguarding@nca.nhs.uk](mailto:NCA.AdultSafeguarding@nca.nhs.uk)

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

\*Remember contact the police if the allegation or concern indicates a criminal offence has occurred or may occur\*



### 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 GM Integrated Care Board 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.

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

Bury 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.

**Bury 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.**

Bury Adult Social Care notify Bolton 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

#### Social worker posting and sharing offensive material via social media

A social worker, who had worked for Bury Council for several years, was known for being active on social media platforms. The social worker was starting to regularly share posts on their Facebook page that contained explicitly racist content. The material was highly offensive and reinforced harmful stereotypes. The Facebook account was set to private, however, several colleagues were connected to the account and could view the post.

A Probation Officer mentioned the posts to their manager. The Probation Service is now the data controller.

The manager decides that – due to the nature of the posts and because the social worker supports vulnerable adults from diverse backgrounds that **they do need to disclose the information and allegations to the social worker's employer.**

# Appendix A: Information Sharing

## **What is the sharing meant to achieve?**

You should have a clear objective or set of objectives. Being clear about this will allow you to work out what data you need to share and who with. It is good practice to document this.

## **What information needs to be shared?**

You shouldn't share all the personal data you hold about someone if only certain data items are needed to achieve your objectives. For example, you might need to share somebody's current name and address but no other information you hold about them.

## **Who requires access to the shared personal data?**

You should employ 'need to know' principles, meaning that other organisations should only have access to your data if they need it, and that only relevant staff within those organisations should have access to the data. This should also address any necessary restrictions on onward sharing of data with third parties.

## **When should it be shared?**

Again, it is good practice to document this, for example setting out whether the sharing should be an on-going, routine process or whether it should only take place in response to particular events.

## **How should it be shared?**

This involves addressing the security surrounding the transmission or accessing of the data and establishing common rules for its security. How can we check the sharing is achieving its objectives? You will need to judge whether it is still appropriate and confirm that the safeguards still match the risks.

## **What risk does the data sharing pose?**

For example, is any individual likely to be damaged by it? Is any individual likely to object? Might it undermine individuals' trust in the organisations that keep records about them?

## **Could the objective be achieved without sharing the data or by anonymising it?**

It is not appropriate to use personal data to plan service provision, for example, where this could be done with information that does not amount to personal data.

## **Key points to consider:**

- Do you think you should share the information?
- Have you assessed the potential benefits and risks to individuals and/or society of sharing or not sharing?
- Do you have concerns that an individual is at risk of serious harm?
- Do you need to consider an exemption in the DPA to share? Do you have the power to share?

**Further points to consider:**

- The type of organisation you work for.
- Any relevant functions or powers of your organisation.
- The nature of the information you have been asked to share (for example was it given in confidence?).
- Any legal obligation to share information (for example a statutory requirement or a court order).

If you decide to share, points to consider:

- What information do you need to share?
- Only share what is necessary.
- Distinguish fact from opinion.
- How should the information be shared?
- Information must be shared securely.
- Ensure you are giving information to the right person.
- Consider whether it is appropriate/safe to inform the individual that you have shared their information.
- Record your decision - what information was shared and for what purpose, who it was shared with, when it was shared and whether you shared the information with or without consent.
- Record your data sharing decision and your reasoning – whether or not you shared the information.



## Appendix B: Risk Assessment

It is critical to have as much information as possible to hand in order to make a reasoned decision. The areas highlighted below provide some guidance but are all encompassing. Cases must be taken on their individual merits with more or less information being sought to assist in the decision making.

### **Allegation**

- what it is
- validity of source
- status of referrer
- risk to individual(s)
- wider public interest issues

### **Person's Work**

- nature of work
- supervised or not contact with service users
- does the person work alone?
- is there contact with people that have previously experienced abuse

### **Existing Intelligence**

- has this person been subject to previous safeguarding children/adult alerts,
- are the person's children subject to a child protection plan?
- does the person work for more than one agency
- what is the person's employment history?
- have there been any complaints against them
- have there been any concerns raised – when what
- what is their sickness record like—what are the reported reasons for absence
- have there been any disciplinary issues
- are there any known healthy issues – mental and physical
- are there any dependency issues – drugs, alcohol etc
- is the person subject to police charges or bail restrictions?
- is there any information from MARAC or MAPPA?

## Mitigating Circumstances

- Is there or has there recently been a family crisis
- Is the person in personal crisis – divorce etc
- Has the person recently suffered a bereavement?

## How disclosures are made

Once a decision is reached to make a disclosure a standard letter should be dispatched to a senior executive within the organisation in question. The disclosure letter should be sent from the Director of Adult Social Care. The person that has had the allegations made about them has a right to know. The organisation for which they work has responsibility to keep them advised.

## The employer/student body risk management arrangements

The following outlines considerations in responding to an assessed risk. This summary of issues is not exhaustive and other responses may be relevant depending on the circumstances of each case.

## Review of working arrangements

The possible risk of harm posed by a 'person in a position of trust' to adults with care and support needs will need to be assessed and managed effectively, taking into account the nature and seriousness of any allegation, harm to any patients/service users, and the risk of repeated incidents/ongoing behaviour.

In some cases, the employer will need to consider suspending an employee. Suspension should not be viewed as a form of sanction. It is a neutral act and does not imply guilt. People must not be suspended automatically or without careful thought. Employers must consider carefully whether the circumstances of a case warrant a person being suspended until the allegation is resolved. If the person is suspended, the employer must make arrangements to keep the individual informed about developments in the workplace.

Suspension should be considered in any case where there is cause to suspect:

- adults with care and support needs are at further risk of abuse or neglect, or
- the allegation warrants investigation by the Police, or
- is so serious that it might be grounds for dismissal, or
- the presence of the person in the work place will interfere with the enquiry/ investigation process.

Suspension may not be required where there are appropriate alternatives. This may sometimes include changes to working arrangements, such as working in a non-patient/service user contact role whilst the allegations are being investigated. The potential for alternative working arrangements will be determined by the nature of the organisation's structure and services. Advice should be sought from HR advisors and/or employment lawyers who may assist with finding alternative arrangements to suspension. The employer cannot be required to suspend any employee by a local authority, police, or other agency.

Where a person is suspended, they are entitled to know in broad terms the reasons for the suspension. Whilst an individual has the right to respond to allegations or concerns raised, this must be at an appropriate time and care should be taken to ensure information is not shared at the point of suspension that may prejudice a subsequent Enquiry/investigation or place any person / adult at risk in additional risk.

Where, on conclusion of a case, it is decided that a person who has been suspended can return to work this process should be carefully managed. The employer should consider what help and support might be appropriate e.g., a phased return to work and/or provision of a mentor, and how best to manage the employee contact with the adult concerned, if still in the workplace.

## Disciplinary hearing processes and responsibilities

The need for, and timing of, a disciplinary hearing is a decision for the relevant employer and will depend on the specific circumstances of the situation. Consideration should be given to whether the decisions or findings within any police or adult safeguarding process may potentially affect decision making within the disciplinary process, and vice versa. These decisions will need to be reached on a case-by-case basis.

Disciplinary hearings will be focused on the conduct of the individual as an employee. Decisions reached should, however, also give due consideration to the organisation's responsibility to safeguard children and adults at risk.

Employers who are also service providers or service commissioners have not only a duty to the adult at risk but also a responsibility to act in relation to the employee when allegations of abuse are made against him or her. Employers should ensure that their disciplinary procedures are compatible with the responsibility to protect adults at risk of abuse or neglect.

For these reasons, it is necessary for the disciplinary hearing process to:

- develop an understanding of the safeguarding issues that have emerged during the enquiry/investigation
- reassure itself that it is acting proportionately to the risk of abuse occurring or reoccurring
- understand the potential impact of disciplinary decisions on the adult at risk and other service users.
- assure itself that staff are safe to work with adults at risk and where needed detail the measures required to provide this reassurance
- consider the need to seek advice from their organisation's adult safeguarding lead in relation to the impact of their decisions on an adult at risk
- understand and act upon responsibilities to refer individuals to Professional Regulatory Bodies and to the Disclosure and Barring Scheme, where appropriate.

## Resignations

An employee has the right to resign, giving contractual notice at any time during disciplinary proceedings. The management in consultation with Human Resources needs to consider how to respond if the employee wishes to resign with 'immediate effect'. It may be more appropriate to require the contractual notice period to be fulfilled. This will ensure that there is an obligation on the employee to co-operate with employment procedures. Employees may still fail to attend meetings. Every effort should be made to define risks to ensure Adults at Risk are safeguarded in all cases even if the employee refuses to participate in an internal investigation, having been given a full opportunity to answer the allegation and make representations.

If the employee's period of notice expires before the disciplinary process is complete the employee should continue to be invited to participate at each stage of the process. It may not be possible to apply any disciplinary sanctions if an employee's period of notice expires before the process is complete. Nevertheless, where the disciplinary process concludes that 'there is a case to answer' a disciplinary hearing should take place. If the (ex-) employee fails to attend the chair should continue with the normal format of a disciplinary hearing and reach a conclusion to determine whether or not the allegations are proven. If some or all allegations are proven the chair of the hearing should record the action that would have been taken if the employee had remained in employment up to the date of the hearing. The (ex-) employee must always be notified in writing of the outcome of the disciplinary hearing.

Managers must not negotiate any form of 'compromise agreements' to release the employee without matters being concluded. Regardless of the circumstances of an employee leaving their employment, the employer will have an obligation to consider requests for references.

References must only be given by managers with the authority to provide an accurate reference and managers are advised to seek advice from HR on receipt of reference requests. Consideration must be given as to whether a referral to the Disclosure and Barring Service is warranted ([www.homeoffice.gov.uk/dbs](http://www.homeoffice.gov.uk/dbs)) when any disciplinary process has been concluded. Referral can still take place after the resignation of an employee from a service. It is an offence to fail to make a referral to the DBS without good reason.

Employment records and adult safeguarding concerns should not be deleted after a time period where the employee works in a role caring for adults as future concerns may arise and past historic information will need to be available to make adequate risk assessments.