

# Allegations against People in Positions of Trust (PiPoT)

March 2020



Under the 2014 Care Act, all agencies working with adults with care and support needs, must have in place a clear policy for responding to allegations against people in positions of trust. WSAB has responsibility to ensure there is an overarching framework and process for how allegations are responded to, with effective coordination and oversight.

Subsequently, all organisations are expected to have the following in place:

- A policy that outlines their response to allegations in relation to actions by staff (paid or unpaid) volunteers and students, which includes an assessment to assess potential risk to adults with care and support needs
- A clear process, including timescales, for the investigation of allegations
- Systems to record adult safeguarding concerns in accordance with Data Protection and confidentiality requirements
- Processes to ensure timely and appropriate referral of employees to the DBS and/or Regulatory Bodies
- Systems to provide employees with support and updates in respect of adult safeguarding investigations, having regard to the employee's rights under the Human Rights Act 1998.

Concerns that should lead to the implementation of the policy include allegations that relate to a person who works with adults with care and support needs who has:

- Behaved in a way that may have, or has, harmed an adult or child
- Been suspected of or committed a criminal offence which may or may not be related to a vulnerable adult or child; but may be considered as presenting a risk to an adult in their care.
- 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.
- Individual agencies have the responsibility to investigate concerns and to ascertain suitability to continue working with Adults at Risk using the steps identified in the PiPoT flow chart (page 6). Children's Safeguarding Procedures must be followed where there are risks relating to children with a referral to the Local Authority Designated Officer (LADO).

Each case must be assessed individually. Unless it puts the adult at risk or child in danger, the individual should be informed regarding the allegation against them and should be offered a right to reply. Agencies should have access to appropriate HR and legal advice in reaching decisions about what needs to be known and decisions should be made within agency policies and the constraints of the legal framework. Decisions on information sharing must be justifiable and proportionate in relation to the potential for, or actual harm and the rationale should always be recorded.

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

- Where relevant and necessary, not simply all the information held.
- With the relevant people who need all or some information.
- When there is a specific need for the information to be shared at that time.

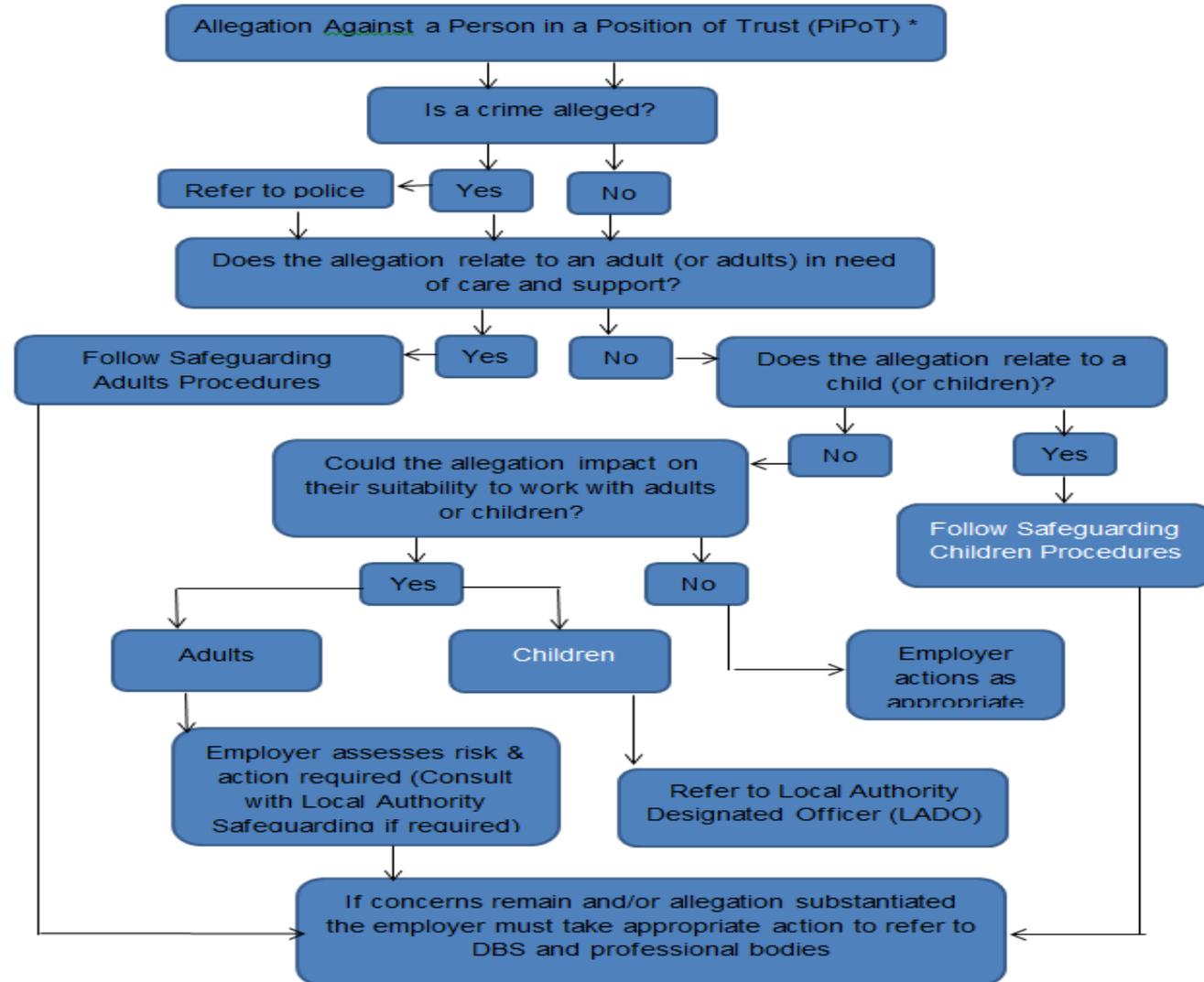
Factors that are likely to need to be considered include the nature and reliability of the allegation; the perceived risks to individuals and the wider public interest; the nature of the persons work and their contact with children or adults; other intelligence that is relevant or mitigating factors (mitigating factors will not be considered an excuse for behaviour but nevertheless may need to be addressed).

**At any stage the Local Authority Safeguarding team can be contacted for advice. Tel 01925 444227**



**You must inform the WSAB if you fail at any point to follow this outlined process**

# PiPoT Flowchart



In reaching a decision as to whether to share information; or in assessing appropriate actions in relation to an allegation against a person in a position of trust, the following legislation will be relevant:

- Care Act (2014) The Care Act Statutory Guidance provides an overview of expectations on agencies in relation to people in positions of trust. This guidance can be found at 14.116 – 14.132 within the guidance which can be accessed [here](#). The guidance is clear that employers must have in place processes to respond to concerns about an individual's conduct alongside robust employment practices.
- **Protection of Freedoms Act (2012) & Safeguarding Vulnerable Groups Act (2006)** The Protection of Freedoms Act was used to update the processes brought in by the Safeguarding Vulnerable Groups Act (2006) (SVGA). It essentially combined a number of provisions for responding to incidents of abuse. The SVGA established the Independent Safeguarding Authority and Criminal Records Bureau, which have now been merged to create the Disclosure and Barring Service (DBS). It is now the DBS that takes referrals in relation to all existing barred lists; List 99, PoCA and PoVA.

The SVGA sets out 'Relevant Conduct' for notification to DBS in relation to vulnerable adults as:

- Conduct which endangers a vulnerable adult or is likely to endanger a vulnerable adult
- Conduct, which if repeated against or in relation to a vulnerable adult or would be likely to endanger him or her
- Conduct involving sexual material relating to children (including possession of such material)
- Conduct involving sexually explicit images depicting violence against human beings (including possession of such images - if it appears that the conduct is inappropriate)
- Conduct of a sexual nature involving a vulnerable adult, if it appears that the conduct is inappropriate

A person's conduct endangers a vulnerable adult if they:

- harm a vulnerable adult
- cause a vulnerable adult to be harmed
- put a vulnerable adult at risk of harm
- attempt to harm a vulnerable adult
- incite another to harm a vulnerable adult

Further information in relation to referrals to DBS can be found on page 14.

- **The Human Rights Act (2000)** outlines the right to fairness and respect for private and family life.
- **The Data Protection Act (1998)** and related Guidance issued by Department of Health particularly Guidance to Social Services in March 2000 concerning data protection, Caldicott guardian manual 2010 and the Ministry of Justice in November 2003 relating to the sharing of personal data in the public sector.

## Information that can help to inform decisions

The following list is a framework of the information that may assist with decision making. This is not a check list or a definitive list of the information that may be needed. This process will need to be assessed on a case by case basis and less or additional information may be required in each case.

### 1. The allegation

- What is the allegation
- The validity of the source of the allegation
- The status of the person making the allegation
- Risk to individuals
- Wider public interest issues

### 2. The person's work

- What is the nature of their work
- Do they have supervised or unsupervised contact with adults or children (this may need to be explored in detail)
- Does the person work alone for some periods

### 3. Existing intelligence and mitigating factors

- Have there been any safeguarding children or safeguarding adult's conferences/meetings in relation to the person?
- Are their children subject to a care plan?
- Do they work for other organisations i.e. agencies?
- What is their employment history?
- Any other complaints against them?
- Any previous concerns, if so when?
- Sickness record and the reason for absence?

- Any disciplinary issues?
- Are there any health issues?
- Are there any mental health issues?
- Are there any alcohol or substance misuse issues?
- Are there any police charges or bail conditions?
- Is there any intelligence from MARAC?
- Has there been a family crisis?
- A bereavement?

Any factors considered that may provide mitigation will not be considered as an excuse for a person's behaviour; however, it is necessary to take them into account.

## Checklist for investigation, decision making and recording:

1. Detail of the allegations
2. How this is relevant to their employment
3. Wider public interest issues
4. Evidence to support decisions
5. Proportionality in relation to the person's rights and the impact of disclosure
6. Risk assessment
7. Disclosure plan

For further guidance around making DBS referrals can be found [here](#)