

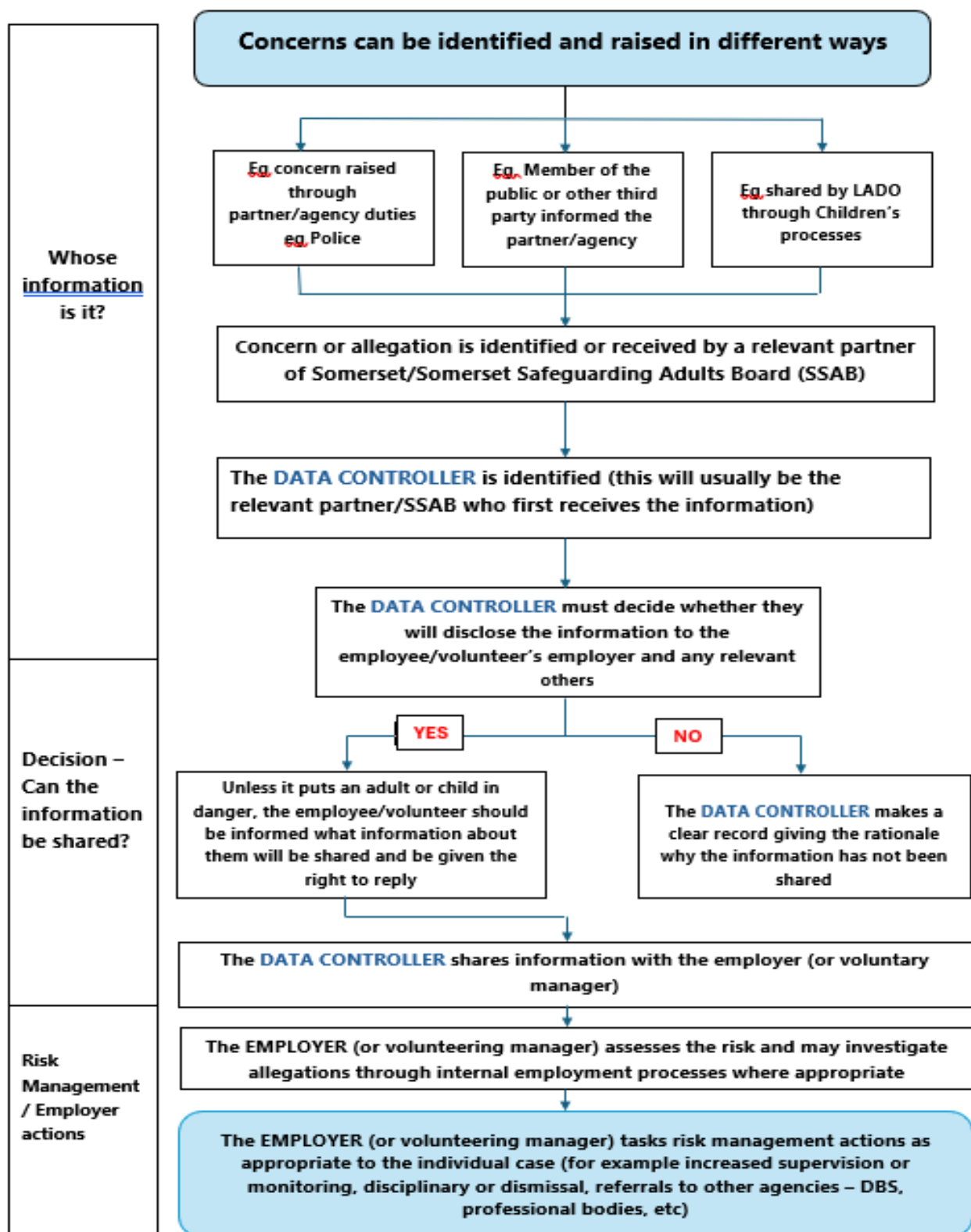
Somerset Safeguarding Adults Board

Managing Allegations against Persons in Position of Trust (PiPoT) Guidance

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Flowchart for Managing Concerns and Allegations against People who Work with Adults with Care and Support Needs



Managing Allegations against Persons in Position of Trust (PiPoT)

1.0. Introduction

Under the Care and Support statutory guidance of the [Care Act \(2014\)](#) Somerset Safeguarding Adult Board is required to have a clear framework and process for how allegations against people working with adults with care and support needs (for example people in positions of trust) should be notified and responded to.

Section 6 (7) of the Care Act (2014) Section 6 (7) of the Care Act 2014 states, local authorities, relevant partners and those providing universal care and support services to adults with care and support needs, should have clear policies in place for dealing with allegations against people who work within their organisations (either paid or unpaid), in line with those from the Safeguarding Adults Board (SAB).

Such policies should make a clear distinction between an allegation, a concern about the quality of care, or practice or a complaint. Other relevant legislation includes the Data Protection Act (2018), the General Data Protection Regulation [UK GDPR], Human Rights Act (1998) and UK employment legislation.

Person in a position of trust:

As part of their employment or voluntary work, a person in a position of trust is likely to have contact with adults at risk of abuse and harm. For the purpose of this guidance, we would define abuse as any act or omission that causes potential or actual harm to an adult or child. It can be physical, sexual or emotional, but can also be about a lack of care and attention or neglect. Any other form of abuse, for example, domestic abuse, modern slavery, and female genital mutilation are also applicable. We know that abuse, whatever form it takes, is damaging to adults and children.

The role of the person in position of trust will carry an expectation of trust, in which the person in a position of trust can exercise authority, power or control over an adult. There are occasions when incidents are reported against a person in a position of trust that do not involve an adult at risk but indicate that a risk may be posed by the person, to adults with care and support needs (further information

regarding this available in the SSAB Data Protection Act 2018 and UK GDPR overview).

The expectation is that all providers / agencies will have arrangements (which may include a policy) to manage allegations made against a person in a position of trust.

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 that they may pose a risk of harm to adults with care and support needs.

If an allegation is made concerning the actions of a professional or volunteer, related to alleged abuse or neglect of a person with care and support needs, which amounts to a safeguarding adults enquiry, this should be reported to the Somerset Safeguarding Service via Somerset Direct. Individual agency Human Resources procedures should also be followed.

What is not included:

Complaints about a care worker, professional or volunteer where concerns are raised about the quality of practice provided by the person in position of trust, but which do not pose a specific risk to adults or children, should be dealt with by organisations' complaints processes. Other relevant bodies and their procedures should be used to recognise, respond to and resolve these issues, such as complaints processes or contract management processes. This may also include referral to CQC, NMC, GMC, Social Work England, or similar.

2.0. Somerset Safeguarding Adults Board

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 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.

Partner agencies will also be required to provide annual data to the SSAB Quality Assurance and Performance Subgroup, regarding the number of PiPoT incidents identified within their agencies, how many safeguarding referrals were made, and how many of those referrals were accepted and processed through the s42 process (dependent upon data availability).

2.1. Local Authority relevant agencies

Agencies / organisations, including those commissioned by the local authority, are expected to use this PiPoT Guidance within their own organisations, with accountability to the SAB. This will ensure their responsibility, management and reporting of PiPoT related risks and allegations for their own staff, and also where they have PiPoT concerns about staff within external agencies.

Please refer to Appendix1 for template for letter to inform an employer and PiPoT process guidance.

2.2 Managing allegations regarding employees

Every organisation is expected to have appropriate policies and procedures in place to manage allegations against their staff. Policies and procedures should be clear and accessible, setting out clear process for managing risk regarding a PiPoT concern. Policies and procedures should:

- determine who should undertake an investigation,
- have clear timescales and action accountability
- how support and advice will be made available to individuals against whom allegations have been made.

Any allegations against people who work with adults, should be reported immediately to a senior manager within the organisation. Employers should have their own source of advice (including legal advice) in place for dealing with such concerns.

Where such concerns are raised about someone who works with adults with care and support needs, it will be necessary for the employer 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..

2.3 Allegations regarding a potential PiPoT who works outside of Somerset

If the potential PiPoT works outside of the Somerset area, agencies should familiarise themselves with the Safeguarding Adult Board PiPoT guidance for that area, and make referrals as required.

2.4 Responsibilities when there are potential risks to children

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) via the [Allegations Reporting Form](#). 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.

The LADO Service provides advice and guidance in relation to risks to children only.

More information about LADO guidance can be found via [Allegations Management - Somerset Safeguarding Children Partnership](#)

2.5 Responsibilities of the Data Controller

If an organisation is in receipt of information that gives cause for concern about a person in a position of trust, the organisation should give careful consideration as to whether they should share the information with the person's employers, to enable the employer to conduct an effective risk assessment.

The receiving organisation becomes the Data Controller as defined by the [Data Protection Act 2018](#) and UK GDPR; Article 4 (please refer to Section 4, Legal Framework, Employer's responsibilities when they are made aware of PiPoT concerns).

Partner agencies and the service providers they commission, are individually responsible for ensuring information relating to PiPoT concerns, are shared and escalated outside of their organisation. Circumstances where this is required include

the Local Authority Safeguarding Team, Disclosure and Barring Service (DBS) or other professional associated body e.g. Nursing and Midwifery Council (NMC), General Medical Council (GMC) etc. Any sharing of information must be lawful, proportionate and appropriate. Organisations are responsible for making the judgment on what information to share in every instance where they are the data controller.

If, following an investigation, a Person in a Position of Trust is removed from their position, by either dismissal or permanent redeployment, to a non-regulated activity, due to posing a risk of harm to adults with care and support needs, 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 a criminal offence to fail to make a referral without good reason. This includes situations where the person in a position of trust resigns, retires or leaves before any investigation is completed. As long as all of the conditions of making a barring referral have been met, a referral should be completed regardless of whether an organisation has accepted or not accepted the person's resignation.

In addition, where appropriate, employers should report professionals to the statutory, and other bodies, responsible for professional regulation, such as the Health and Care Professions Council, Social Work England, General Medical Council and the Nursing and Midwifery Council where appropriate. Where there is a requirement placed on the professional to self-refer to their regulatory body, this should be reinforced by the employer.

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), should 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.

3 Information Sharing

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

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

- where there is a legal justification for doing so (note: this is not the Data Protection Act but comes from underlying legislation).
- where there is a suspicion that a crime has occurred, contact should be made with the Police to ensure relevant information is shared.
- when it is relevant and necessary, this needs to be proportionate and needs to be relevant to others as part of the investigation
- when there is a specific need for the information to be shared at that time is shared securely

Further guidance about information sharing can be found on the Somerset Safeguarding Adults Board [Information Sharing and Safeguarding Adults](#) website.

3.2 Timescales

This guidance applies whether the allegation or incident is non-recent, or where the information indicates current risk. Whilst there are no specific timescales for managing PIPOT related matters, it is expected that partner agencies respond in a timely manner upon receiving information, depending on the circumstances and risks.

Some allegations are so serious an immediate referral to the police and/or social care for investigation is warranted. In these situations, organisations are advised to consult with their safeguarding leads, Police and/or Somerset Direct (local authority safeguarding service).

Appendix 1:

Suggested Individual agency / organisational PiPoT Process Guidance

Sufficient information should be gathered by the Data Controller (that is the safeguarding adult board partner agency which holds the information; NHS agencies, Somerset Council, Avon and Somerset Police or other partner agency as described in section 2), to make a decision on whether further action is required under the PiPoT process.

Information deemed to be essential to be recorded for annual assurance purposes:

- confirmation that the subject of the referral is aware of the referral to the PiPoT process
- where the subject of the referral works or volunteers,
- specific reason why the referrer feels the PiPoT process is required, specifically risks and reason for concern

Internal process should include following discussion with the person in the organisation identified as the lead for PiPoT, the case should be allocated to an appropriate person to gather information. Advice and guidance should be provided through usual line management routes; with the option to escalate to one of the lead Safeguarding officers if the situation is particularly complex or contentious. Special consideration should be given to whom the case is allocated if the referral is about a member of staff working for the Data Controller to ensure that there is no conflict of interest. It would not be appropriate for a case to be allocated to someone in the same team or for the direct line manager to be involved in giving advice. The line manager(s) should not be made aware of the referral unless / until it has been agreed that the employer should be advised of the potential risk.

Usual practice should be to involve the referred person (PiPoT) in this process. Only where discussion with the referred person (PiPoT) may be considered harmful to them or others should this not take place and the decision not to involve the person requires management authorisation. In most cases, the referred person (PiPoT) should be made aware from the outset that a referral has been received and their involvement and engagement in the process sought. Reassurance should be given

that whilst the Data Controller will gather information, no disclosure will be made to the employer without the referred person (PiPoT) being made aware. The exception to this is where the alleged concern indicates that the risk is so high that there is sufficient justification to contact the employer / voluntary organisation without making prior contact with the referred person (PiPoT). In all such instances, there needs to be a discussion with a manager in advance of the contact.

The allegation should be recorded, how and where this is recorded should be agreed locally. The referred person (PiPoT) should be made aware that information will be held on the Data Controller's database.

There will be occasions when the allegation spans across both Adult's (PiPoT) and Children's (LADO) processes. In such circumstances, it should be agreed which process will take the lead, with a commitment to appropriate and proportionate information sharing. There is an option to escalate this decision to the LADO / Lead Officer, if required.

Managing the allegation

Following the fact finding and information gathering process, a management decision needs to be taken in terms of whether, and what, to disclose to the person's employer / voluntary organisation. In most cases, the decision will be made by the responsible manager, but with the option to seek advice from one of the safeguarding lead officers if the situation is especially complex. Legal opinion should also be sought, as required, on a case-by-case basis.

The rationale for decision making needs to be clearly recorded by the Data Controller for assurance and audit purposes.

If it is decided that the employer needs to be informed, an appropriate Manager within the employing organisation should be contacted. Initial contact can be verbal but should be followed up with a written letter.

The person referred (PiPoT) should be kept updated during the process and informed of the outcome. If the decision is taken to inform the employer / voluntary organisation, the information shared should be proportionate and the person (PiPoT) should be advised what information will be shared. Wherever possible, the referred person (PiPoT) should be encouraged to share the information with their employer /

voluntary organisation themselves, although this will need to be followed up by the Data Controller to confirm.

Working with the employer

Once the employer or voluntary body has been informed, they are responsible for assessing the risks in the context of their service or organisation. Only the employer has the authority to suspend, redeploy or make other changes to the working arrangements. Each organisation will have policies or procedures in place for investigating concerns about staff, such as disciplinary processes and these should be the employer's primary source of guidance.

The employer should be advised of their duty to assess and effectively manage the potential risk of harm posed by the staff member to adults with care and support needs, considering the nature and seriousness of the allegation. The Data Controller can advise the employer on the need to undertake a risk assessment and action plan and request a copy of this if the level of concern is sufficiently high, but this is dependent on the cooperation of the employer and is not enforceable.

The employer should also be reminded of their duty of care for their employee and ensure that appropriate information and advice is provided to them.

End of the process

The PiPoT process ends either once a decision has been taken not to disclose on the basis that the criteria is not met or following the disclosure to the employer a response has been received as to the outcome of the referral. At this point, the responsible manager will review the interventions and close the case as per standard protocol.

If the original referrer has concerns about how the employer has responded to the referral, and they are not able to resolve these with the employer, the Data Controller should escalate to the relevant SAB if they believe adults remain at risk.