



# **Derbyshire Safeguarding Adults Board**

## **Framework and guidance for responding to allegations against a person in a position of trust (PIPOT)**

The statutory guidance to the Care Act 2014 requires Safeguarding Adults Boards to establish and agree a framework and process to respond to allegations against anyone who works (either paid or unpaid) with adults with care and support needs.

The purpose of this guidance is to provide a framework for managing cases where allegations have been made against a person in a position of trust (PIPOT) and is focussed on the management of risk based on an assessment of abuse or harm against an adult with care and support needs. It provides a framework to ensure appropriate actions are taken to manage allegations regardless of whether they are made in connection with the PIPOT's employment, in their private life or any other capacity.

**The focus on adult safeguarding work is to safeguard one or more identified adults with care and support needs.**

“Safeguarding duties apply to an adult who:

- Has needs for care and support (whether or not the local authority is meeting any of those needs)
- Is experiencing, or at risk of abuse or neglect
- As a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse and neglect”

There are occasions when concerns/incidents/allegations are reported that do not involve an adult at risk or with care and support needs but indicate that a risk may be posed to such an adult. On these occasions the PIPOT process should be followed.

**The term “employer” refers to the organisation that has a working relationship with the adult against whom the allegations have been made. This includes employment agencies, voluntary organisations, etc.**

**This guidance applies to the Local Authority, all partner agencies, and commissioned Local Authorities relevant partners and those providing care and support services. Employers should designate a named senior manager to whom allegations or concerns should be reported. Employers and voluntary organisations should also have clear PIPOT policies in place in line with those of the Derbyshire Safeguarding Adults Board (DSAB).**

Each partner agency will be required to provide assurance annually to the DSAB that the PIPOT arrangements within their organisation are functioning effectively.

This guidance intends to inform and support the decision making processes of partner agencies once they become aware of a PIPOT concern. The guidance applies to current or historical concerns.

Policies and guidance will facilitate a proportionate and appropriate response to allegations against an employee, volunteer, student etc. who works with or cares for adults with care and support needs.

All policies should highlight the distinction between the following and which framework it is most appropriate to follow:

- An allegation against a person in a position of trust
- A concern about the quality of care or practice
- A complaint

**Examples below demonstrate incidents which may indicate that a risk may be posed by a person in a position of trust: please note that this is not an exhaustive list:**

- An individual has been accused of abusing their mother and is also employed as a domiciliary care worker with adults who have care and support needs;
- An individual is accused of GBH/ABH and is a care worker in a home for adults with learning disabilities;
- An individual is accused of theft and is employed as a support worker;
- An individual has children subject to child protection procedures as a result of emotional abuse and neglect and is employed in a day centre for adults with dementia.

**Or the person has:**

- Behaved in a way that has harmed, or may have harmed an adult with care and support needs;
- Possibly committed a criminal offence against, or related to an adult with care and support needs;
- Behaved in a way which has harmed children or may have harmed children which means their ability to provide a service to adults with care and support needs must be reviewed;
- May be subject to abuse themselves and as a consequence means their ability to provide a safe service to adults with care and support needs must be reviewed;
- Allegations may relate to the individual's behaviour at work, home or in another setting.

When concerns are raised the employer/voluntary organisation/student body should assess any immediate potential risk to adults with care and support needs who use their services, and, if necessary, take action to safeguard those adults. This may include a referral to the police if it is believed a crime has been committed.

The employer should not ask the PIPOT any questions that will interfere with any criminal investigation, however, the PIPOT should be informed of concerns or allegations as soon as possible.

Employers/voluntary organisations/student bodies should have clear procedures in place setting out the process, including timescales, for investigation and what support and advice will be available to the individual whom allegations have been made against.

It is expected that an allegation will be reported immediately to the named senior manager within the organisation and organisations should have access to their own sources of advice (including legal advice) in place to deal with such concerns.

Any disciplinary investigation should be conducted alongside Adult Safeguarding policy and procedure and/or any police investigation.

A police investigation will have priority over other investigations but internal investigations and safeguarding enquiries can run concurrently

**Children:** This guidance is concerned with allegations of harm towards adults with care and support needs. However, if the allegation is such that there is a concern that the individual's conduct may also pose a risk to children or their suitability to work with or continue to work with children a referral should be made to the Children's Services/LADO officer by emailing [professional.allegations@derbyshire.gov.uk](mailto:professional.allegations@derbyshire.gov.uk)

**PIPOT referral forms should be emailed to:** [DerbyshireSAB@derbyshire.gov.uk](mailto:DerbyshireSAB@derbyshire.gov.uk)

On receipt of the referral there will be a strategy discussion (within 1 working day) to decide on any further action or meetings required.

This discussion should involve all appropriate and relevant parties, e.g., social care, involve police, the adult's employer, supervisor, line manager or HR manager, CQC, health agencies, children's services, commissioners, contract teams, the social worker of the adult with care and support needs. **This list is not exhaustive and each referral should be considered on a case by case basis regarding who to discuss/share information with.**

After initial discussion and sharing of information if a formal meeting is required it will be decided on a case by case basis what further actions/investigations are required.

**Information should only be disclosed if there is a "pressing need" and essentially relates to proportionality and balance.**

In each case a balance should be struck between the duty to protect people with care and support needs from harm or abuse and the effect on the individual regarding information about them being shared (for example, upon the person's Article 8 Human Rights – the right to private and family life).

Employers have a duty of care to their employees and should act to minimise the stress inherent in the PIPOT allegation process. An employer should ensure they provide effective support for anyone facing an allegation.

Each case will be considered on its own merit in deciding which agency will take the lead. Identifying and agreeing actions, timescales, etc. if a formal meeting is required and identify whom actions are designated to. (Please see PIPOT agenda/meeting template)

The PIPOT should be informed of allegations as soon as possible and be informed of the likely course of action, unless there is an objection by the Police or Adult Care. Objections to sharing information with the PIPOT should be recorded by the employer and the Safeguarding Service Manager with the justification and rationale being clear.

The initial sharing of information may lead to a decision that no further action is to be taken in relation to the PIPOT facing the allegation or concern; in which case this decision should be recorded by the employer and the Safeguarding Service Manager (DCC). It should also be agreed what information will be shared in writing with the PIPOT and by whom.

In some cases the PIPOT may be suspended from duty or other arrangements will need to be made to ensure the PIPOT is removed from contact with adults with care and support needs. The employer must consider carefully whether the circumstances warrant suspension and seek advice from their HR team. Suspension should not be an automatic response when an allegation is reported; all options should be considered and recorded before suspending the PIPOT.

Suspension should be considered only when:

- There is cause to suspect an adult/s with care and support needs are at risk of harm; or
- The allegation is so serious that it may be grounds for dismissal.

Depending on the nature of the allegation the employer should also consider the potential for professional reputational damage to the PIPOT that can result from suspension if an allegation is found to be unsubstantiated or of a malicious nature.

If immediate suspension is considered necessary, the rationale and justification for taking this action should be recorded and include what alternatives to suspension had been considered and why they were not appropriate. The PIPOT should be given written confirmation of suspension within 1 working day, giving as much detail as possible for the suspension. The PIPOT should also be informed at this time who their named contact within the organisation will be.

**The power to suspend is lies with the employer.** Adult Social Care (or the police) cannot require or make the decision on behalf of the employer to suspend the PIPOT.

**The following must also be established:**

- If the adult is aware of the allegations against them and has had the opportunity to share the information with their employer and make any appropriate representations.
- If the individual has declined to share this information this does not mean this cannot be shared. A decision will be made in discussions or meetings regarding who will share all relevant information about the adult who is the subject of the allegation and any alleged victim. Decisions will be made on a case by case basis and should be proportionate and shared in a timely and transparent manner.
- It should also be clarified what support is available to the adult.
- The scope and timescales of any further enquiries/investigations/meetings should be agreed
- Also, consider whether any other people are affected by the allegation and agree any further action, timescales and who will undertake agreed actions.
- Record how the individual who is the subject of the allegation is kept informed and supported
- Record how the adult with care and support needs and their representatives will be kept informed
- Agree how parallel process will work together to avoid confusion/disruption of the processes (police investigation, s42 enquiry, organisation/HR investigation, contracts/commissioning teams)
- A refusal by the adult who is the subject of the allegation to engage with the investigation/enquiries does not prevent the processes from proceeding.
- The following areas will be addressed in a PIPOT meeting – **the purpose of the meeting and confidentiality agreement – sharing the detail of the allegation – consider if a crime has been committed – confirm all appropriate immediate actions were taken to protect adults with care and support needs and children –**

**are risk assessments required – agree who is doing what, when, how – identify how the PIPOT will be supported – agree further actions**

Please see the Derbyshire Safeguarding Adult Board website for the [PIPOT referral form, agenda and meeting templates](#).

Following the investigation, which will be carried out by the most appropriate agencies decided on a case by case basis. A decision will be made about conclusion/outcome.

- **False / Unfounded** - there is sufficient evidence to disprove the allegation or no evidence or basis to support the allegation made
- **Unsubstantiated** - there is insufficient evidence to prove or disprove the allegation. The term does not imply guilt or innocence
- **Malicious** – there is clear evidence that the allegation is entirely false and there has been a deliberate act to deceive
- **Substantiated** – there is sufficient identifiable evidence to prove the allegation/s

If the allegation is substantiated and the adult is dismissed or resigns before dismissal employers are required by law to complete a [referral to the Disclosure and Barring Service](#) and any professional body the adult is registered with. The employer should inform the Safeguarding Service Manager of the date of the referral to the DBS

‘Settlement agreements’, between the adult and employer where the individual may agree to resign and the employer agree not to pursue disciplinary action and both parties agree content of future references are not an appropriate response and should not be agreed. If the PIPOT does resign this should not prevent the allegation being investigated.



If the individual is to return to work it should be agreed and recorded how this will be managed to support all parties.

Liaise with CQC, CCG, Commissioning and Contracts, Police, DCHS, LADO Officer, etc., as appropriate.

Outcomes of investigations, enquiries, disciplinary process shared appropriately and proportionally.

Police should inform the employer and the Safeguarding Service Manager when a criminal investigation or trial is complete, or if it decided to close the investigation without charge, or not prosecute after the PIPOT has been charged. This information from the police should inform if any further actions are necessary including any disciplinary action (e.g., misconduct, dismissal, transfer to alternative duties, increased supervision, training). The employer should always take advice from their HR and/or Legal Department.

If allegations are found to have been malicious details of the allegation should be removed from HR records. Allegations which are proven to be malicious, false or unsubstantiated should not be included in any employer references.

If the PIPOT is self-employed it should be considered how the PIPOT's activity can be monitored or restricted through working with professional or regulatory bodies; e.g., Police, HCPC, CQC, DBS, GMC, and that appropriate information is included on any future DBS checks. The PIPOT should be informed of a referral to any professional or regulatory body and it should be recorded who will do this.

PIPOT activity data will be reported to the DSAB on a quarterly basis.

**Records will be kept about the allegation, investigation and outcome until the PIPOT is aged 70 or for a period of 10 years from the date of the allegation if that is longer.**

## Information Sharing

Decisions on sharing information must be **justifiable and proportionate**, based on the **potential or actual harm** to adults or children and the **rationale for decision-making 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 always sharing 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;
- Considering the above – confidential information can be shared if it is justified as being in the public's interest; e.g. for the detection and prevention of crime and for the protection of vulnerable persons, i.e. adults with care and support needs at risk of harm or neglect (and children).

The conclusion of the PIPOT should consider if the outcomes demonstrate any evidence or themes or patterns relating to historical PIPOT concerns with an individual or within an organisation and ensure that learning from past concerns is applied as necessary to reduce risks to adults with care and support needs.

Any information shared will be in line with current law but in such a way that allows appropriate and proportionate enquiries to be made that ensures adults with care and support needs are protected and public confidence in services is maintained.

Care Act 2014, Human Rights Act 1998 (Article 8 – the right to private and family life), GDPR Regulations 2018, The Courts and Criminal Justice Act 2015 which now includes the following criminal offences:

(20) Ill-treatment or wilful neglect: care worker offence

“It is an offence for an individual who has the care of another individual by virtue of being a care worker to ill-treat or wilfully to neglect that individual”

(21) Ill-treatment or wilful neglect: care provider offence

A care provider commits an offence if:

“An individual who has the care of another individual by virtue of being part of the care provider’s arrangements ill-treats or wilfully neglects that individual .....

## **Record keeping**

Robust and accurate record keeping is an integral part of adult safeguarding processes to ensure that adults with care and support needs are safeguarded, and that individuals and organisations are held accountable for their actions. The PIPOT referral form and meeting templates should be comprehensively completed to document the allegations, events, actions, decisions taken and the rationale.

The PIPOT is entitled to have access to their personal records, it is therefore important that information recorded, is fair, accurate and balanced.

## **Learning lessons**

At the conclusion of a case the Safeguarding Service Manager should discuss with the employer and any other appropriate partners whether there are any improvements / changes that could be made to their policy and practice to prevent similar future events. Any significant concerns will be shared with the DSAB and any further actions undertaken by Performance and Information sub-groups of the DSAB.

## Summary of process

<p>1. CONCERN RAISED (by partner agency, LADO, whistle-blower, member of public – list not exhaustive)</p>
<p>2. PIPOT referral form completed and sent to: <a href="mailto:DerbyshireSAB@derbyshire.gov.uk">DerbyshireSAB@derbyshire.gov.uk</a> A response will be made within 1 day of receipt of referral (Monday-Friday)</p>
<p>3. Decision made re who to share initial information with, discussions and/or meeting with appropriate partner agencies and employer. Is the PIPOT aware of the allegations? If not the discussions/meetings should decide what and how information will be shared with them. Risk assessments completed, further actions agreed, e.g., referral to DBS, HCPC</p> <p>If it is clear at the onset the allegation is unsubstantiated or malicious the case should be resolved within 1 working week.</p> <p>A decision about the need for a strategy meeting should be made within 1 working week and the meeting held within 3 weeks.</p> <p>Additional meetings can take place at any time as deemed necessary but should be completed in a timely way</p>
<p>4. Rational should be clearly recorded re who/how information will be shared and also record if information is not to be shared with specific partners</p>
<p>5. Outcome of investigation, enquiries, disciplinary process shared appropriately and proportionately with one of the following outcomes clearly recorded.</p> <ul style="list-style-type: none"> <li>• False</li> <li>• Unsubstantiated</li> <li>• Malicious</li> <li>• Substantiated</li> </ul>
<p>6. Learning lessons/further actions</p>
<p>7. PIPOT activity data reported to DSAB on a quarterly basis</p>

## **Record keeping**

Good quality record keeping is an integral part of ALL adult safeguarding processes, recording should give an accurate and complete account of actions, events, defensible decisions and outcomes. A record or chronology of key issues should be completed / maintained.

[PLEASE USE THE PIPOT REFERRAL FORM, AGENDA AND MINUTE TEMPLATES](#) on the **Derbyshire DSAB website**.

## An aide memoire for areas to consider/support decision making for making a PIPOT referral

<u>Consider:</u>	No Concerns	Some Concerns – require further enquiry	Significant cause for concerns
Has the person behaved in a way that has harmed or may have harmed an adult with care or support needs	No concerns of harm or potential harm	Some concerns of harm or potential harm	Serious harm or potential harm
Has the person possibly committed a criminal offence against or related to adults at risk	No	No harm towards an adult with care or support needs but a criminal offence has been committed	Yes
Has the person behaved towards an adult in a way which indicates unsuitability to work with adults with care and support needs	No	Yes	Yes
Has the person behaved in a way that has harmed or may have harmed children which means their ability to provide a service to adults with care and support needs must be reviewed	No	Yes	Yes
Has the person behaved in a way which questions their ability to provide a service to adults with care and support needs	No	Yes	Yes

which must be reviewed (e.g. conviction for assault outside the work environment)			
Is the person subject to abuse themselves which may impact on their ability to provide a safe service to adults with care and support needs	No	Yes	Yes
	<b>SAFEGUARDING OR PIPOT CRITERIA NOT MET FOR REFERRAL</b>	<b>PIPOT REFERRAL COMPLETED</b>	<b>PIPOT REFERRAL COMPLETED</b>

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