



Liverpool
City Council

Protocol for managing concerns around people in a position of trust with adults with care and support needs



Version Control			
Date	Version	Author name and designation	Summary of changes
13/09/2018	V1	Jan Summerville Manager Quality Assurance and Safeguarding Lynn Milne Safeguarding Adults Board and Deprivation of Liberty Officer	

GLOSSARY

ADASS	Association of Directors of Adult Social Services
DBS	Disclosure and Barring Service
Data controller	A person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed
Data subject	A person who is the subject of personal data
Data processor	In relation to personal data, means any person (other than an employee of the data controller), who processes the data on behalf of the data controller
DPA	Data Protection Act
GDPR	General Data Protection Regulations 2018
PiPoT	Person in a position of trust
SAB	Safeguarding Adults Board

CONTENTS

GLOSSARY

1.0	Introduction and context	5
2.0	Scope of protocol	5
3.0	How might a concern about a Person in a Position of Trust (PiPoT) be identified	6
4.0	Where does responsibility lie for responding to a PiPoT concern?	6
5.0	What should the response to a concern be?	7
6.0	Information sharing	8
7.0	Roles and responsibilities	10

APPENDICES

Appendix 1:	Flowchart to manage concerns and allegations	12
Appendix 2:	Factors to consider	13
Appendix 3:	PiPoT Referral form	14
Appendix 4:	Position of trust planning meeting agenda template	15
Appendix 5:	Position of trust case closure agenda template	17
Appendix 6:	Letter to person in position of trust	19
Appendix 7:	Letter to employer	20

1. Introduction and context

This protocol should be read in conjunction with the North West Policy for Managing Concerns around People in Positions of Trust with Adults who have Care and Support Needs and Liverpool inter-agency safeguarding adults procedures. See link below

www.liverpool.gov.uk/council/strategies-plans-and-policies/adult-services-and-health/safeguarding-adults-procedure/

Section 6 (7) of the Care Act 2014 requires the council, partners and those providing universal care and support services to have clear policy and practice guidance in line with those from the Safeguarding Adults Board. These will set out how to deal with allegations and concerns against people who work, in either a paid or unpaid capacity, with adults who have care and support needs. Such policies should make a clear distinction between an allegation, a concern about the quality of care or practice, or a complaint.

This guidance aims to ensure that if information is shared or disclosed it is done so according to the law but in such a way that allows appropriate and proportionate inquiries to be made that ensures adults with care and support needs are protected and public confidence in services is maintained.

2. Scope of the protocol

This document relates to allegations concerning incidents that happen outside of the professional/volunteer role and workplaces. The allegations do not relate to people using services. However, the nature of the allegations could potentially pose a risk to adults who have care and support needs.

The processes relate to people who have allegedly:

- Behaved in a way that has harmed or may have harmed a child and/or an adult with care and support needs
- Committed a criminal offence against, or related to, a child or an adult with care and support needs
- Behaved in a way towards a child or an adult in need of safeguarding that indicates s/he is unsuitable to work with children or adults with care and support needs
- Behaved in a way which raises questions about their ability to provide a service to an adult with care and support needs which must be reviewed, for example a conviction for grievous bodily harm against a person who does not have care and support needs.

These processes should be used if there are concerns about:

- A person's behaviour with regard to his/her own children
- The behaviour of a person's partner, family member, or other member of their household in their private or community life

- Whether a person has been abused and as a consequence may find that their ability to provide a service to adults with care and support needs may be affected.
- A person who may be subject to abuse themselves and as a consequence means their ability to provide a service to adults with care and support needs may be affected

Examples of these include:

- A worker or volunteer is accused of domestic abuse. The person works in an acute trust
- A son has been accused of financially abusing his mother and works in domiciliary care
- A worker or volunteer has been accused of abuse or neglect of a child and works in adult day services.

Liverpool Safeguarding Children Board Safeguarding Procedures Allegations of Abuse made against Professionals in their Personal Lives will apply when there is an allegation made in relation to a child.

http://liverpoolscb.proceduresonline.com/chapters/p_alleg_adults_ch.html

What is excluded?

If an allegation relates to the action of a professional or volunteer that involves the abuse or neglect of a person with care and support needs and this amounts to a safeguarding enquiry, then such an allegation should be dealt with by following the Liverpool Safeguarding Adults Inter-agency Procedures.

3. How might a concern about a person in a position of trust be identified?

Concerns around a person in a position of trust's (PiPoT) behaviour may be identified in countless ways but may be as a result of:

- Police intervention or investigation
- Information discovered during an adult or children's safeguarding enquiry
- Whistleblowing
- Commissioner monitoring activity
- Complaint
- Report from a member of the public
- Providers alerting commissioners of services
- Commissioners contract monitoring activity
- Any other source of disclosure.

4. Where does responsibility lie for responding to a person in a position of trust concern?

The partner agency or service provider that they commission, that first becomes aware of the allegation or concern will be the primary data controller or owner of the

information. It is their responsibility to risk assess the information and decide whether or not to disclose the allegation/concern to the employer.

Examples of these include:

- The police become aware of domestic abuse and the alleged perpetrator of the abuse works as a nurse in an acute trust in Liverpool. The police are the data controller and are responsible for making the decision whether or not to disclose the allegation to the acute trust.
- A relative reports to Liverpool adult social care that a family member abuses drugs and alcohol and is also a domiciliary care worker for a provider agency. Liverpool City Council is the data controller and is responsible for deciding whether or not to disclose the information to the worker's/volunteer's employer.
- A social worker from another council has been allocated an investigation into an allegation of child abuse and the alleged perpetrator works in supported living in Liverpool. The council dealing with the child abuse allegation is the data controller and is responsible for making the decision whether or not to disclose the information to the worker's/volunteer's employer.

5.0 What should the response to the concern be?

Where Liverpool's adult social care is the data controller, the PiPoT referral should be sent without delay to SAR@liverpool.gscx.gov.uk. The safeguarding adults board and deprivation of liberty officer will screen the information. If immediate action is needed the officer will report this to the manager/senior manager quality assurance and safeguarding.

A detailed record of the allegation or concern and steps taken in response must be kept.

Any PiPoT about whom there are concerns must be treated fairly and honestly. Employers have a duty of care towards them. People need to consider that malicious concerns can be made. If a PiPoT is removed, either by dismissal or permanent redeployment to non-regulated activity because they pose 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). Employers should also consider if they need to report workers to statutory and other bodies responsible for professional regulation such as Health and Care Professions Council, General Medical Council, or the Nursing and Midwifery Council.

In the event of reaching a conclusion not to progress the allegation through the PiPoT pathway a full record of discussion and decision must be kept.

If the PiPoT attempts to leave employment through resignation in efforts to avoid disciplinary or investigatory action the employer (or student body or voluntary organisation) is entitled not to accept the resignation and conclude whatever process has been instigated. Dependent on the investigation outcome the employer can

dismiss the employee or volunteer and make a referral to the DBS and relevant registration body.

6.0 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 behind any decision made should always be recorded.

The default position should be that the owner of the information about a PiPoT should not share it without the PiPoT's knowledge and permission so that the PiPoT is given the opportunity to share information with their employer first. If the PiPoT declines to share it with their employer for whatever reason, this does not mean the information cannot be shared by the data controller.

If the PiPoT asks the data controller not to share information, a decision must be made by the data controller, in line with principles in this protocol, whether to agree with this request.

If agreement is reached for information not to be shared, the rationale must be recorded as it may be the case that more detail comes to light to influence a change in this decision. If a decision is made at a later date to share information, the PiPoT should be consulted again, if it is appropriate, and given a further opportunity to disclose to the employer.

In each case involving an allegation or concern raised against a PiPoT, a balance has to be struck between the duty to protect people with care and support needs from harm or abuse and the effect upon a person relating to information about them being shared.

Due regard must be had to Article 8 of the European Convention on Human Rights that states:

- Everyone has the right to respect for his private and family life, his home and his correspondence
- There shall be no interference by a public authority with the exercise of this right, except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

When deciding whether to interfere with a person's Article 8 rights, the primary issue must be one of proportionality. Information is to be disclosed only if there is a

“pressing need” for disclosure. In considering proportionality, consideration must be given to the following general principles¹:

- The legitimate aim in question must be sufficiently important to justify the interference
- Measures taken to achieve the legitimate aim must be rationally connected to it
- Means used to impair the right must be no more than necessary to accomplish the objective
- A fair balance must be struck between rights of the individual and interests of the community; this requires a careful assessment of the severity and consequences of the interference².

“There is a general presumption [which is not absolute] that information should not be disclosed, such a presumption being based upon a recognition of (a) the potentially serious effect on the ability of [in this case convicted people] to live a normal life; (b) the risk of violence to such people and (c) the risk that disclosure might drive them underground.”³

Before actually disclosing information to a third party, there is a need to consult with the person whose information is to be disclosed and to give them an opportunity of making representations before the information is disclosed⁴. “The imposition of such a duty is a necessary ingredient of the process if it is to be fair and proportionate.”⁵

Information may be shared by an individual or agency in the expectation that it will not be shared with others; i.e. it will be kept confidential. Confidential information can be shared if it is justified as being in the public interest. It is a matter for professional judgment, acting in accordance with information sharing protocols and the General Data Protection Regulations (GDPR) to decide whether breaching a PiPoT’s confidentiality is in the public interest.

If, after weighing up all information, a decision is made not to tell the PiPoT about the concern about them and seek their permission to share it with their employer, (because doing so would place any adults or children at increased risk of harm), then this decision and the reasons for it should be accurately recorded. However, the PiPoT decision process must identify the earliest opportunity for them to be informed.

¹ R (on the application of H) v A City Council [2011] EWCA Civ 403

² Huang v Secretary of State for the Home Department, Kashmiri v Same [2007] UKHL 11, [2007] 2 AC 167, para [19]²

³ R v Chief Constable of North Wales Police and Others (ex parte Thorpe and Another) [1999] QB 396, p409

⁴ R (L) v Commissioner of Police of the Metropolis (SoS for the Home Department intervening) [2010] 1 AC 410

⁵ Ibid per Lord Neuberger (para [84])

7.0 Roles and responsibilities

Careline:

- Determine if information requires PiPoT referral (see section 2 of this document) or alternative pathway, and if Liverpool City Council is the data controller (person works in Liverpool with people with care and support needs)
- Complete PiPoT referral ensuring all information is recorded
- Interrogate information systems to determine if adult social care holds any other information relevant to the PiPoT concern
- Send PiPoT referral to safepacmeetings@liverpool.gov.uk
- If PiPoT referral needs immediate action telephone quality assurance and safeguarding manager/safeguarding adults board and deprivation of liberty officer 0151 233 0809/0807

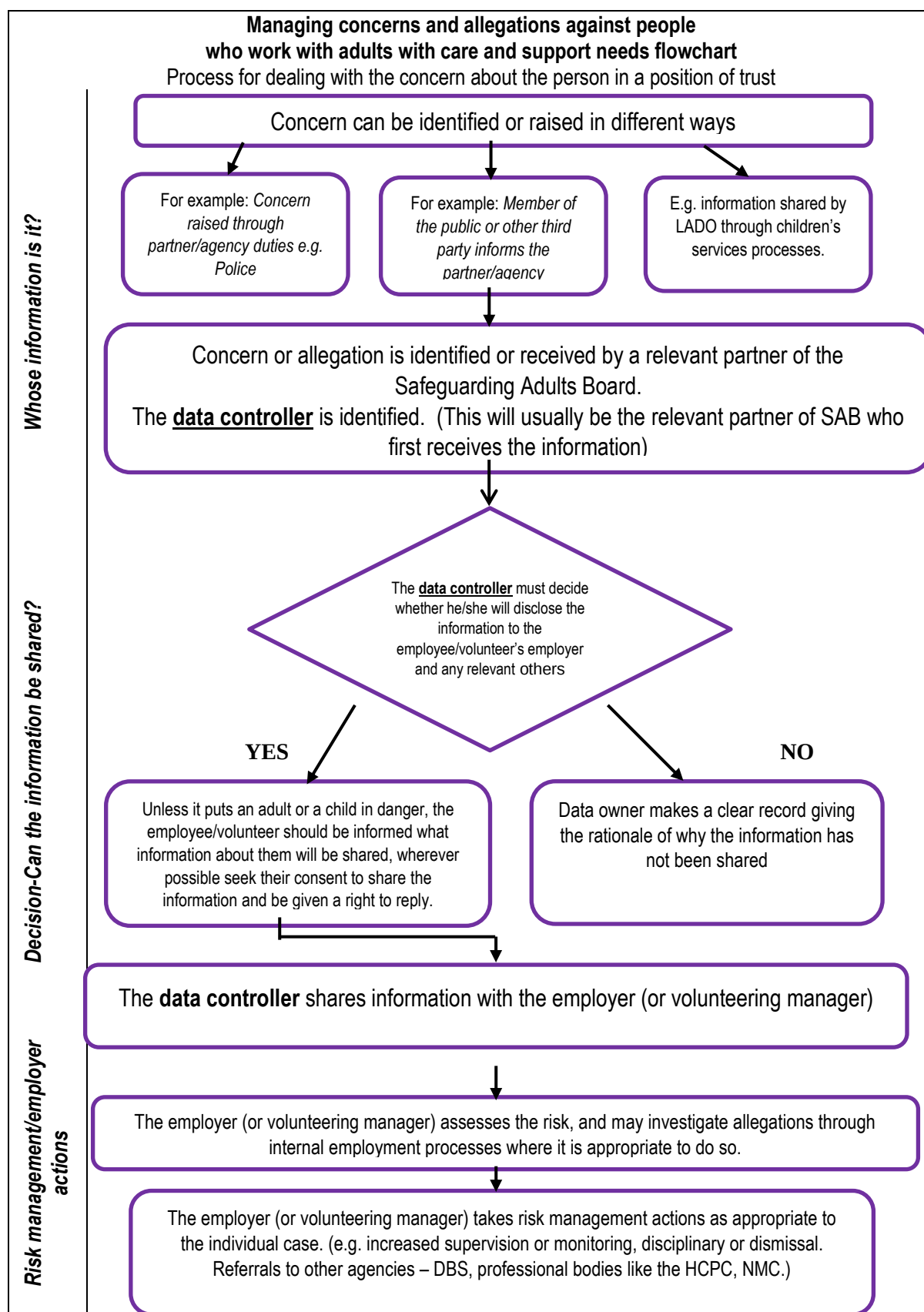
Quality assurance and safeguarding:

- The safeguarding adults board and deprivation of liberty officer screens the PiPoT referral, if immediate action is needed the officer will liaise with the quality assurance and safeguarding manager/senior manager
- Record information securely in locked down folder
- Interrogate systems for any relevant information
- Arrange meeting with legal services and quality assurance safeguarding manager to risk assess the information and make a decision whether or not to disclose the allegation/concern to the worker/volunteer's employer using the guidance toolkit appendix 2
- Where the allegation concerns the worker's/volunteer's own health, consideration should be given to referring on to appropriate services with the worker's/volunteer's consent
- Record the outcome of decision, record to include referrer's details, PiPoT, concern, actions taken and decision and rationale for decision taken. Records must be kept in accordance with GDPR
- If decision is to disclose the allegation/concern to the worker/volunteer's employer, data controller sends a letter to the worker/volunteer of what actions will be taken, allowing the worker/volunteer the opportunity to disclose the information to their employer (see appendix 6)
- If it is decided to disclose the allegation/concern to the worker/volunteer's employer but not to inform the worker/volunteer, data controller sends a letter to the director/chief executive of the worker's/volunteer's employer (see appendix 7)
- Report PiPoT activity data to the Merseyside Safeguarding Adults Board as per local arrangements
- Evaluate findings from PiPoT concerns to identify themes or system-wide issues within organisations. Ensure appropriate action is taken to ensure learning from past events is applied to reduce the risk of harm to adults with care and support needs.

Record keeping of PiPoT issues

- Accurate record keeping is essential in all PiPoT cases
- People responsible for investigating and managing PiPoT concerns must, as far as is practicable, contemporaneously maintain a complete account of events, actions and decisions with full rationale.
- Records of actions taken to investigate PiPoT concerns found to be without substance must be retained in order to build up history
- People, including a PiPoT subject to this process, are entitled to access their personal records whether stored electronically or manually. It is critical all information recorded is fair, accurate and balanced.

Appendix 1: Flow chart to manage concerns and allegations



Appendix 2: Factors to consider in relation to PiPoT notifications

QUESTIONS	NO CAUSE FOR CONCERN	SOME CAUSE FOR CONCERN	CAUSE FOR CONCERN
The person has behaved in a way that has or may have harmed an adult with care and support needs	No harm or potential harm	Some harm or potential harm	Serious harm or potential harm
Possibly committed a criminal offence against or related to an adult at risk	No	Not to an adult with care and support needs but the offence is serious	Yes
Otherwise behaved towards an adult/s at risk in a way that indicates that s/he is unsuitable to work with adults with care and support needs	No	Yes	
Has the person behaved in a way that has or may have harmed children which indicates their ability to provide a service to adults with care and support needs requires review?	No	Yes	
May be subject to abuse causing the need to review their ability to provide a service to adults with care and support needs	No	Yes	
Behaved in a way which questions their ability to provide a service to adults with care and support needs which must be reviewed – e.g. conviction for grievous bodily harm	No	Yes	
	All Green? – Not PiPoT	More than 2? – Follow PiPoT	One or More ?- Follow PiPoT or Safeguarding

Appendix 3: PiPoT referral form

Name of alleged perpetrator	
Date of birth (if known)	
Address (if known)	

Place of work (company name and address in Liverpool)	
Job role (works with adults with care and support needs)	
Has employer been informed of the allegations?	

Referral number if applicable	
Do the allegations involve children? If yes, has children's services been informed?	

Date of referral	
Name of referrer	
Contact details of referrer	
Relationship of referrer to alleged perpetrator	
Have the police been informed of this information? (If so, please add the police log or crime reference number)	
Details of allegation/concern	
Details of further actions completed in Careline	
Team leader completing referral form:	Date:
Outcome of referral	
Rationale for decision	Decision made by:

Appendix 4: Managing concerns around people in a position of trust agenda template

Chair			Date	
Start time			Finish Time	
Venue			Minute taker	
Person in a Position of Trust			Employer and role	

Confidentiality statement

Those present are reminded that this meeting is strictly confidential. Discussions are not to be shared outside of this meeting. All agencies should develop procedures to ensure that the minutes are retained in a confidential and appropriately restricted manner. The minutes will aim to reflect that all people who are discussed at the meeting should be treated fairly, with respect and without discrimination. All decisions undertaken at the meeting will be informed by a commitment to equal opportunities and effective practice issues in relation to race, gender, sexuality and disability.

Minutes of this meeting could be shared as part of criminal, civil or disciplinary proceedings, or as part of investigations concerning whether a person should be barred from working with children or adults with care and support needs.

If further disclosure is considered appropriate, permission should be sought from the chair.

The minutes should not be photocopied or shared without the agreement of the chair.

Purpose of the meeting

This meeting is held under Liverpool City Council Managing Concerns around People in a Position of Trust Protocol (2018) to :

- Share information
- Risk assess the information

Agenda		
1.		Introduction and confidentiality statement
2.		Detail of allegation/ concern to include current and previous allegations/ concerns, details to whom the allegation/ concerns relate to
3.		How this is relevant to employment/volunteering activity with adults with care and support needs
4.		Relevant information from attendees
5.		Risk assessment:
6.		Where relevant agree support to the person in a position of trust
7.		Decision and rationale
8.		Agree feedback mechanism to the referrer (who, what when)
9.		Consider strategy for media enquiries (if relevant)
10.		Next steps including detail of further meetings
• Agree actions to be taken, by whom and by when		

Appendix 5: Managing concerns around people in a position of trust meeting template

Chair		Date	
Start time		Finish time	
Venue		Minute taker	
Person in a Position of Trust		Employer and role	

Present	
Apologies	
Confidentiality Statement	
Summary of allegation/ concern	
How relevant to employment / voluntary work	
Risk assessment	
Decision to disclose/not disclose information and rationale	
AOB	

	Agreed action	By whom	By when
1.			
2.			
3.			
Strategy for media enquiry (if relevant)			
Agreed feedback to the PiPoT			
Agreed feedback mechanism to referrer and relevant others where appropriate			
AOB			

This record is issued in the belief that it accurately reflects the meeting. Please contact the chair within seven days of receipt to record any inaccuracies or omissions. This record is confidential and is not to be reproduced or copied to others without chair's approval.

Appendix 6: Template letter to person in a position of trust



Liverpool
City Council

Date

Dear

I am writing to advise you that I will be writing to your employer to inform them that we have received the following information:

XXXX

The letter will be sent to your employer (allow 14 days) in line with Liverpool City Council's protocol for managing concerns around people in a position of trust with adults with care and support needs.

This period will allow you the opportunity to disclose the information to your employer.

Yours sincerely,

Assistant director for integrated health and social care

Appendix 7: Template letter to employer



Liverpool
City Council

Name of recipient
House number / name
Street name
City
Postcode

Date

Dear

Re:

In line with Liverpool City Council's protocol for managing concerns around people in a position of trust with adults with care and support needs, I am writing to you to inform you that we have received information about the person named above which has given us cause for concern

We have been informed:

We are concerned that _____ works with adults who may be at risk.

It is expected that you will take appropriate action in relation to a risk assessment in order to ensure the safety and protection of the people in your care. We would welcome feedback following any actions you have taken.

Yours sincerely,

Assistant director for integrated health and social care