

Persons in Position of Trust (PIPOT) Practice Guide

February 2022



People in a Position of Trust (PIPOT) Practice Guide

This Practice Guidance is for Managing Allegations against People in Positions of Trust (PIPOT) who work with Adults who have Care and Support needs.

This document provides the Barking and Dagenham Safeguarding Adults Board with a Practice Guide for the approach and process to be followed when responding to allegations relating to people who work in a Position of Trust with adults, who have care and support needs. This protocol relates to the requirements of section 14 of the Care and Support Statutory Guidance of the Care Act 2014.

The Practice Guide

1. Introduction

- 1.1 This protocol was created to support implementation of the requirements in [the Care and Support Statutory Guidance around the Care Act \(2014\)](#) (which was updated in 2018) that deal with 'Allegations against people in a position of Trust' – paragraphs 14.120 to 14.132. This Protocol and Practice Guide is designed to be read in conjunction with this and relevant information sharing guidance/ legislation.
- 1.2 This Protocol and Process also draws heavily from the [The Bromley Safeguarding Adult Board Framework and Toolkit for Managing allegations and Concerns around People in Positions of Trust who work with Adults who have care and support Needs \(2018\)](#) with thanks.
- 1.3 This protocol relates to those instances where a relevant agency is alerted to information that may affect the suitability of a professional, or volunteer to work with an adult(s) at risk, where such information has originated from activity outside their professional or volunteer role and place of work.
- 1.4 The alleged victim, in such circumstances, does not have to be an adult at risk, for example, it could be their partner or a child. Therefore, take note that this document refers to when there is an allegation which does not necessarily directly involve an adult at risk but may have risk implications in relation to the employment or volunteer work of a person in a position of trust (PIPOT).
- 1.5 If the allegation is that the person in a position of trust has abused or neglected an adult at risk in their care then Section 42 Enquiry processes apply. Under such circumstances, disclosure and information sharing would be discussed and decided through those meetings and discussions. This policy would not apply.
- 1.6 Examples of concerns where the PIPOT policy and process would apply include where 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.
- 1.7 Where an adult has behaved in such a way that this impacts on their suitability to work with (or continue to work with) children then this should be referred to the Local Authority Designated Officer (LADO). There is likely to be some overlap in such cases and both the risks to adults and children need to be considered appropriately – please see Section 3.2 of this protocol.

2. Information Sharing

If information is shared or disclosed it is done so in accordance with the 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. Appendix A offers some guidance around the Data Protection Act (1998) and GDPR.

Please also reference [Social Care Institute for Excellence \(2019\) Safeguarding Adults: Sharing Information – Seven Golden Rules.](#)

It is important to note that legislation such as GDPR is not a bar to information sharing but instead offers us a framework to ensure that it is proportionate and respects the rights of those involved.

3. Responsibilities of Partner Agencies

3.1 Regarding Adults

The Barking and Dagenham Safeguarding Adults Board (BDSAB) requires its partner agencies to be individually responsible for ensuring they adopt and implement this protocol and practice guides and to maintain clear organizational procedures for dealing with allegations around Persons In Positions Of Trust that relate to adults.

The Protocol must be followed, in all cases, by the organisation which first becomes aware of a relevant allegation, where information (whether current or historical) is identified.

3.1.1 Clear procedures in place:

All BDSAB partners 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.

3.1.2: Risk assessment and acting:

All BDSAB partners are required to assess any potential risk imposed by the PIPOT to adults with care and support needs who use their services, and, if necessary, to act to safeguard those adults in a prompt and robust way.

3.1.3 Adult PIPOT Leads

The Barking and Dagenham Safeguarding Adults Board also requires partner agencies, and the service providers they commission, to identify a designated person to oversee the delivery of responsibilities in their organisation i.e. an Adult PIPOT Lead.

To contact the London Borough of Barking and Dagenham PIPOT lead, please e-mail: safeguarding.adults@lbbd.gov.uk to request a referral form or someone to call you back to discuss the case.

3.1.4 Sharing information:

Dealing with such situations can be complex due to the competing requirements of balancing individual rights to confidentiality against obligations to disclose information in order to safeguard adults at risk.

Partner agencies and the service providers they commission are individually responsible for ensuring that information relating to adult Position of Trust concerns are shared and escalated outside of their organisation where this is required and appropriate.

Each case must be dealt with on its own facts and with reference to relevant legislation and Information Sharing Protocols, particularly when making a decision to disclose confidential information, in order to demonstrate justification and proportionality. Decision making must be carefully evidenced – some suggested templates are attached as Appendixes.

3.1.5 Obtaining legal advice:

Legal advice may be (and where there is doubt as to how to proceed it should be) sought due to the legal complexities involved and to ensure an organisation is acting in accordance with the law. The Strategic Safeguarding Adults Service at the London Borough of Barking and Dagenham are also happy to give (or arrange for) advice and support.

3.1.6 Assurance to the Barking and Dagenham Safeguarding Adults Board:

Each partner agency will be required to provide assurance to the Barking and Dagenham Safeguarding Adults Board that the Person in a Position of Trust arrangements within their organisation are functioning effectively. This should form part of the annual assurance report.

The BDSAB will maintain oversight of whether these arrangements are considered to be working effectively between and across partner agencies in the Borough.

3.2. Regarding Children

3.2.1 Local Authority Designated Officer (LADO):

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.

3.2.2 Receiving referrals: You may receive information to suggest a member of staff working within the borough of Barking and Dagenham has:

- Behaved in a way that has harmed a child, or may have harmed a

- child;
- Possibly committed a criminal offence against or related to a child; or
- Behaved towards a child or children in a way that indicates s/he would pose a risk of harm if they work regularly or closely with children.

3.2.3: Responding to referrals: Report the matter to the Local Authority Designated Officer (LADO) immediately if any of the above is the case. If the allegation is to be reported out of office hours, contact Children's Social Care Out of hours Emergency Duty Team.

Please **do not**:

- Investigate the allegation
- Ask leading questions
- Promise confidentiality
- Discuss the allegation with the accused person even if you have to suspend them

and please **do** ensure:

- If the child is injured the parents are advised and medical attention is sought.
- The child and other relevant children are safeguarded from any potential risk of harm.

3.2.4: Further information on referring to the Barking and Dagenham LADO can be found at: <https://www.lbbd.gov.uk/safeguarding-at-risk-children>

4. The Legal Context:

4.1 Existing legislation

4.1.1 This protocol 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.

4.1.2 Any actions and interventions taken, to address concerns or allegations regarding a person in a position of trust, must be lawful and proportionate, and accord with any relevant statutory provision, for example, Data Protection Act 1998 and GDPR, Human Rights Act 1998 and employment legislation.

4.2 Data Controller:

4.2.1 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.

4.2.2 The receiving organisation becomes the **Data Controller** as defined by the [Data Protection Act 1998](#) and [GDPR; Article 4](#)

4.2.3 Partner agencies and the service providers they commission, are individually responsible for ensuring that information relating to PIPOT allegations, are shared and escalated outside of their organisation in circumstances where this is required. Such sharing of information must be lawful, proportionate and appropriate. Organisations are responsible for making the judgment that this is the case in every instance when they are the **Data Controller**.

4.3 Disclosure and Barring Service:

4.3.1 If, following an investigation a Person in a Position of Trust is removed, by either dismissal or permanent redeployment, to a non-regulated activity, because they pose a risk of harm to adults with care and support needs, (or would have, had the person not left first), then 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 an offence to fail to make a referral without good reason

4.3.2. In addition, where appropriate, employers should report workers to the statutory and other bodies, responsible for professional regulation such as the Health and Care Professions Council, General Medical Council and the Nursing and Midwifery Council.

4.3.3 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), is entitled **not** to accept that resignation and conclude whatever process has been utilised with the evidence before them.

4.3.4 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.

4.4 Information Sharing:

4.4.1 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.

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

- Where relevant and necessary, not simply all the information held.
- With the relevant people who need all or some of the information.

4.5 When there is a specific need for the information to be shared at that time.

4.5.1 There is a positive duty to share information and to seek the agreement of the subject about whom the information is being shared where it is appropriate, necessary and safe to do so.

4.5.2 There is a power to share information and a duty to share information. The duty to share information with relevant partners to prevent abuse and crime is contained in the Care Act 2014 and Safeguarding Vulnerable Groups Act 2006.

4.5.3 While the Care Act 2014 provides a mechanism for information sharing, the guidance suggests that consent should be obtained where possible. However, if consent is not obtained but judged to be in the public interest to share, then the information can be shared.

5. Scope

5.1 This protocol and process applies to 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.

5.2 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.

5.3 This protocol applies whether the allegation relates to a current or an historical concern. Where the allegation is historical, it is also 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.

6. Out of Scope:

6.1 The protocol 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 (PIPOT). Concerns or complaints about quality of care or practice should be dealt with under the relevant agency or individual complaint, competence or representations processes.

6.2 If an allegation is made that does concern the actions of a professional, or volunteer which related to alleged 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 local adult safeguarding policies and procedures.

6.3 Section 14 of the Care Act Care and Support Statutory: Guidance states that Safeguarding is not a substitute for:

- Providers' responsibilities to provide safe and high-quality care and support.
- Commissioners regularly assuring themselves of the safety and effectiveness of commissioned services.
- The Care Quality Commission (CQC) ensuring that regulated providers comply with the fundamental standards of care or by taking enforcement action.
- The core duties of the police to prevent and detect crime and protect life and property.

6.4 Therefore, careful consideration should be given to distinguish clearly between:

- A complaint about a professional or volunteer.
- Concerns raised about the quality of practice provided by the person in a position of trust, that do not meet the criteria for a safeguarding enquiry.

6.5 Other relevant bodies and their procedures should be used to recognise, respond to and resolve these issues.

7 References and sources of additional guidance:

[The Care and Support Statutory Guidance around the Care Act \(2014\) – updated 2018.](#)

[HM Government: Information sharing; guidance for practitioners and managers \(2018\)](#)

[The Bromley Safeguarding Adult Board Framework and Toolkit for Managing allegations and Concerns around People in Positions of Trust who work with Adults who have care and support Needs \(2018\)](#)

[Social Care Institute for Excellence \(2019\) Safeguarding Adults: Sharing Information – Seven Golden Rules.](#)

Further guidance

8 Recording and record keeping:

8.1 Record-keeping is an integral part of all adult safeguarding processes to ensure that adults with care and support needs are safeguarded, and that organisations and individuals are accountable for their actions when responding to concerns about a person in a Position of Trust.

8.2 Individuals with responsibility for the investigation and management of PIPOT concerns must, as far as is practicable, contemporaneously document a complete account of the events, actions and any decisions taken, together with their rationale. This is to enable any objective person to understand the basis of any decision that was made, together with any subsequent action taken

8.3 Records of actions taken to investigate PIPOT concerns which have been found to be without substance should also be retained to build up any history

8.4 Records may be used to prepare reports to the Barking and Dagenham Safeguarding Adult Board (for example to identify trends and patterns or give assurance that adults with care and support needs have been protected).

8.5 Records might also be shared with any other relevant party to ensure the safety of adults with care and support needs.

8.6 A chronology or log of key events, decisions and actions taken should also be maintained to provide a ready overview of progress.

8.7 Individuals (including a person in a position of trust who is the subject of the recording) are entitled to have access to their personal records whether they are stored electronically or manually. It is therefore important that information recorded, is fair, accurate and balanced.

London Borough of Barking and Dagenham suggests that you keep clear notes about meetings and actions taken. It is also suggest that the following records are to be held:

- Full details of the original referral and referrer (date, name, contact details, job role).
- Full details of the PIPOT and the relevant employer.
- Details of the concern itself (allegation, other agencies involved in this, when/ where).
- Who is managing the PIPOT process in relation to this person.
- Dates of meetings and where minutes can be found.
- Disclosure decided?
- Date of disclosure to employer and route (e.g. e-mail or postal address sent to – individual's name) and timescales given for response.
- Acknowledgement of disclosure received on?
- Outcomes from employer/ registering body – date received, what will happen, any pending information (e.g. internal or police enquiry).
- Any other actions agreed.

8.8 The purpose of the PIPOT record-keeping is to:

- Prevent unnecessary re-investigation if an allegation resurfaces after a period.

- Enable patterns of behaviour which may pose a risk to adults with care and support needs to be identified.
- To assure the Safeguarding Adults Board that adults with care and support needs are protected from harm.

8.10 Partner agencies who form part of the Barking and Dagenham Safeguarding Adults Board are expected to report PIPOT activity to the BDSAB on an annual basis.

9. BDSAB Partners Good Practice Checklist:

Does your organisation have an Adult PIPOT lead?

Does your organisation have a PIPOT record system to record concerns, the steps taken, the decisions made on actions, or no action taken, and the basis of taking this position?

Does the recording mechanism support defensible decision making?

Is your PIPOT information held securely?

Does your organization include how Adult PIPOT issues have been dealt with in your assurance report to BDSAB?

Does your organization consider that support is offered to a person in an adult PIPOT alleged to have caused harm?

Has your organization established sources of advice (including here necessary, legal advice)?

11. Information Sharing Guidance for Practitioners and Managers when there is public interest:

11.1 Even where you do not have consent to share confidential information, you may lawfully share it in the public interest. Seeking consent should be the first option. However, where consent cannot be obtained or is refused, or where seeking it is inappropriate or unsafe, the question of whether there is enough public interest must be judged by the practitioner on the facts of each case. Therefore, where you have a concern about a person, you should not regard refusal of consent as necessarily precluding the sharing of confidential information.

11.2 A public interest can arise in a wide range of circumstances, for example, to protect children from significant harm, protect adults from serious harm, promote the welfare of children or prevent crime and disorder. There are also public interests, which in some circumstances may weigh against sharing, including the public interest in maintaining public confidence in the confidentiality of certain services.

- 11.3 The key factors in deciding whether to share confidential information are necessity and proportionality, i.e. whether the proposed sharing is likely to make an effective contribution to preventing the risk and whether the public interest in sharing information overrides the interest in maintaining confidentiality. In making the decision you must weigh up what might happen if the information is shared against what might happen if it is not and decide based on professional judgement. The nature of the information to be shared is a factor in this decision making, particularly if it is sensitive information where the implications of sharing may be especially significant for the individual or for their relationship with the practitioner and the service.
- 11.4 The Safeguarding Vulnerable Adults Act (2006) places, in Section 5, a further duty on those who provide regulated activities to refer to the Disclosure and Barring Service (DBS) if they have dismissed or removed an employee or volunteer from their role due to a belief that they have harmed, or pose a risk to, an adult with care and support needs or child. This still applies if the individual has left their job and is regardless of whether they have been convicted of a related crime. The DBS would then undertake their own screening and investigation to reach a decision. Agencies should keep all relevant information so it is available upon request by the DBS.
- 11.5 The Police may disclose to an employer when this is deemed relevant to protect members of the public. Police will look at the '[Common Law Police Disclosure](#)' guidance available via the College of Policing to determine what is appropriate – this replaces the Notifiable Occupations Scheme. Local information sharing agreements (such as that signed through the Barking and Dagenham Safeguarding Adults Board for partners of that Board) will also allow for information sharing between organisations. The Police do have limited powers under the Crime and Disorder Act (1998) to share information for the purposes of crime reduction – however, the Police are under no obligation to share information with an employer (particularly if no crime has been committed or alleged).
- 11.6 If a disclosure is made then the referring partner should make it clear when a response is expected (typically acknowledgement of disclosure within 24 hours and formal response within 2 weeks). If no response is received within the required timeframes then a chasing correspondence should be sent (primarily to check information was received).
- 11.7 If the employer or registering body gives a response which is felt to leave adults at risk in danger then there should be consideration of engaging other processes – such as a referral to their own registering body (e.g. CQC) or a Section 42 Enquiry around Institutional Abuse.

Links to key organisations, which may need to be referred to:

- [Disclosure and Barring Service](#)
- [Health and Care Professionals Council](#)
- [Nursing and Midwifery Council](#)
- [General Medical Council](#)
- [General Dental Council](#)
- [UK Council for Psychotherapists.](#)
- [Social Work England](#)
- [The Care Quality Commission.](#)

To make a referral to (or request advice from) the London Borough of Barking and Dagenham's PIPOT lead please e-mail safeguarding.adults@lbbd.gov.uk

12. Appendixes to PIPOT protocol to guide PIPOT practice

12.1 Appendix 1: Referral Form

12.2 Appendix 2: Managing Concerns and Allegations Against People Who Work with Adults with Care and Support Needs – Flowchart.

12.2 Appendix 3: Best Practice Guidance when deciding to disclose information and the Data Protection Act 1998 and GDPR Overview (including key questions flowchart).

12.3 Appendix 4: Risk balance Sheet

12.4 Appendix 5: Factors to consider regarding Person in a position of Trust notifications.

End of PIPOT protocol and Practice Guidance.