



# **Kent and Medway Safeguarding Adults Board**

## **Managing Concerns around People in Positions of Trust (PiPoT)**

**Date Approved by KMSAB: July 2020**

**Review Date: July 2022**

Based on the Pan Lancashire Policy

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## Introduction

This document is to be read in conjunction with the Kent and Medway Safeguarding Adult Board's (KMSAB) [Multi-Agency Safeguarding Adults Policy, Procedures and Practitioner Guidance for Kent and Medway](#) which sets out the legal responsibilities and how organisations work together to safeguard adults.

[Care and Support Statutory Guidance](#) (section 14.120 – 14.132) established the requirement that all relevant Safeguarding Adults Board (SAB) partners (employers, student bodies and voluntary organisations) must have policies and procedures in line with those of Safeguarding Adults Boards for responding to concerns against any person who works with adults, in either a paid or unpaid capacity, in positions of trust. This applies to all organisations commissioned to provide services by them, so they respond appropriately to allegations made.

There should be a clear distinction between:

- A concern/allegation about abuse or neglect by a professional, or volunteer – this should be managed via these procedures
- A concern about the quality of care or practice provided by the person in a position of trust, that do not meet the criteria for a safeguarding enquiry – this should be raised as a quality issue initially to management within the organisation
- Or a complaint – which needs to be dealt with via the organisation's own complaints procedure

A person can be considered to be in a 'position of trust' where they are likely to have contact with adults with care and support needs as part of their employment or voluntary work, and

- Where the role carries an expectation of trust and
- The person is in a position to exercise authority, power or control over an adult(s) with care and support needs (as perceived by the adult themselves).

Positions of trust may include, but are not limited to, any staff working on behalf of:

- Social care
- Health services
- Police and criminal justice
- Housing
- Education
- Advocacy
- GPs
- Private and Voluntary Sector
- Agency and Bank Workers
- Religious/Faith Leaders
- Commissioning Services

This protocol provides the framework for how concerns and allegations against people working with adults with care and support needs should be notified and responded to. There are occasions when incidents are reported that do not involve adults with care and support needs, but indicate, nevertheless, that a risk may be posed to adults with care and support needs by a person in a position of trust.

This process provides assurance to the Kent and Medway Safeguarding Adults Board that all relevant partners:

- respond to concerns raised and balance the rights of individuals to whom concerns have been raised
- share information based on the principles of justification and proportionality
- work closely with other relevant partners, Position of Trust Leads and Children's Local Authority Designated Officer (LADO)
- consider any transferability of risk, e.g. behaviour in their personal life to their work life.

For the remainder of this protocol, a 'concern' relates to either a concern and/or an allegation and 'people in a position of trust' will be referred to as PiPoT.

### **PiPoT Concern**

Where PiPoT concerns are raised about someone who works with adults with care and support needs, it will be necessary for partners to assess any potential risk to other adults who use their services and, if necessary, to take action to safeguard those adults.

Examples of such concerns could 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 they may pose a risk of harm to adults with care and support needs
- their conduct has raised concern as to their suitability to act in a position of trust

Partner agencies and the service providers they commission are individually responsible for ensuring that information in relation to PiPoT concerns is shared and escalated outside of their organisation in circumstances where this is required, and it should be proportionate and appropriate with decisions made on each individual case.

Whilst concerns may be raised through safeguarding processes about PiPoT, it may come to light through many routes, including complaints, regulatory inspections, audits and quality systems, staff grievances, 'whistleblowing', social media, disciplinary and performance procedures. Organisations must have effective systems for identifying allegations from these different sources and the organisation's safeguarding lead(s) (covering both children

and adults) must be informed about any safeguarding concerns relating to people in a position of trust.

As well as the responsibility for the safety of adults with care and support needs, employers also have a duty of care to their employees. They should ensure they provide effective support for anyone facing an allegation and provide the employee with a named contact if they are suspended. It is essential that any allegation of abuse made against a member of staff or volunteer is dealt with very quickly, in a fair and consistent way that provides effective protection for the adult and, at the same time, supports the person who is the subject of the concern.

## Legal Framework

Both the Data Protection Act 1998 and the General Data Protection Regulations define the following:

**Data Subject** means an individual who is the subject of personal data

In other words, the data subject is the individual whom particular personal data is about. The Act does not count, as a data subject, an individual who has died or who cannot be identified or distinguished from others.

**Data Controller** means 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 is, or is to be, processed.

In other words, the Data Controller is the organisation or individual who first becomes aware of the allegation or concern. The Data Controller is considered to be the owner of the information and has responsibility for taking appropriate action, i.e. risk assess and decide whether disclosure to other bodies should be made.

It is the Data Controller that must exercise control over the processing and carry data protection responsibility for it. The Data Controller must be a “person” recognised in law, that is to say:

- individuals
- organisations; and
- other corporate and unincorporated bodies of persons

Data Controllers will usually be organisations, but can be individuals, for example self-employed consultants. An individual given responsibility for data protection in an organisation will be acting on behalf of the organisation, which will be the Data Controller.

In relation to Data Controllers, the term jointly is used where two or more persons (usually organisations), act together to decide the purpose and manner of any data processing. The term “in common” applies where two or more persons share a pool of personal data that they process independently of each other. Data Controllers must ensure that any processing of personal data, for which they are responsible, complies with the Act. Failure

to do so risks enforcement action, even prosecution and compensation claims from individuals.

**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

The Data Protection Act 1998 and the General Data Protection Regulations requires anyone handling personal information to comply with the principles set out in the Acts:

- the information processed must be fair and lawful
- personal data must be kept in a secure and confidential place

The Information Commissioner's Office (ICO) upholds information rights in the public interest. Further information about the law relating to data use/control can be found on their website.

The Crime and Disorder Act 1998 states any person may disclose information to a relevant authority under Section 115 of the Act:

*"Where disclosure is necessary or expedient for the purposes of the Act (reduction and prevention of crime and disorder)"*

The Human Rights Act 1998 – The principles set out in the Human Rights Act must also be taken into account within this framework, in particular the following:

**Article 6** – The right to a fair trial; this applies to both criminal and civil cases against them..... the person is presumed innocent until proven guilty according to the law, and has certain guaranteed rights to defend themselves

**Article 7** – A person who claims that a public authority has acted or proposes to act in a way which is unlawful by section 6(1) may a) bring proceedings against the local authority under this Act in the appropriate court or tribunal, or b) rely on the convention rights or rights concerned in any legal proceedings.

**Article 8** – The right to respect for private and family life

### **Initial Response to a Concern**

Any allegations against a PiPoT must be raised with the Lead responsible for the employee when the conduct of the person may impact upon their suitability to work with adults with care and support needs. The process would be as follows:

- contact to be made within own agency's relevant Position of Trust Lead (or equivalent e.g. Safeguarding Lead)
- the Position of Trust Lead/Safeguarding Lead will assess the information provided and undertake the necessary enquires within a specific time frame agreed by the agency
- Each agency's own policies/procedures will dictate human resources and escalation procedures

- Where information is received regarding other relevant partners' employees, then the receiving Position of Trust Lead/Safeguarding Lead will advise the Position of Trust Lead/Safeguarding Lead of the responsible relevant partners
- 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 children's Local Authority Designated Officer.

Where an allegation has been made or a concern raised that abuse or neglect may be taking place, then a Section 42 safeguarding adults' referral will be made to the relevant Adult Social Care Team / Safeguarding Team under the Kent and Medway Safeguarding Adults Board's [policy and procedures](#). At the point a safeguarding concern is raised, there will need to be a discussion between the Position of Trust Lead/Safeguarding Lead and other identified leads (such as Human Resources, Safeguarding Team, Police, etc.) to determine the actions to be taken as part of, and separate to, the safeguarding enquiry (for example criminal investigation may take precedence over internal disciplinary processes initially). This is described as a planning meeting. This will be determined on a case by case basis locally. Any subsequent activity which falls under the Section 42 duties follows the KMSAB policy procedures and guidance.

If a person who is not connected to an organisation has a concern, they should contact the local authority for safeguarding advice.

### **Criminal allegations**

If a criminal investigation is being undertaken in relation to an individual's conduct in their private life, a decision will be undertaken by Kent Police whether to inform the employing agency under the Common Law Police Disclosure Scheme.

### **Confidentiality**

The Data Protection Act 2018 and the General Data Protection Regulations should be adhered to.

### **Allegations Record Keeping**

Partners' PiPoT policy/procedures should reflect the need to keep a summary of the concerns/allegations, details of how it was followed up and resolved and a note of actions taken and decisions reached, in line with their organisation's recording and retention policies and procedures.

There is a legal requirement for employers to make a referral to the Disclosure and Barring Service and professional bodies where they think an individual has engaged in conduct that harmed (or is likely to harm) a person and they are in regulated activity, or if a person otherwise poses a risk of harm to another person.

## Oversight and Monitoring

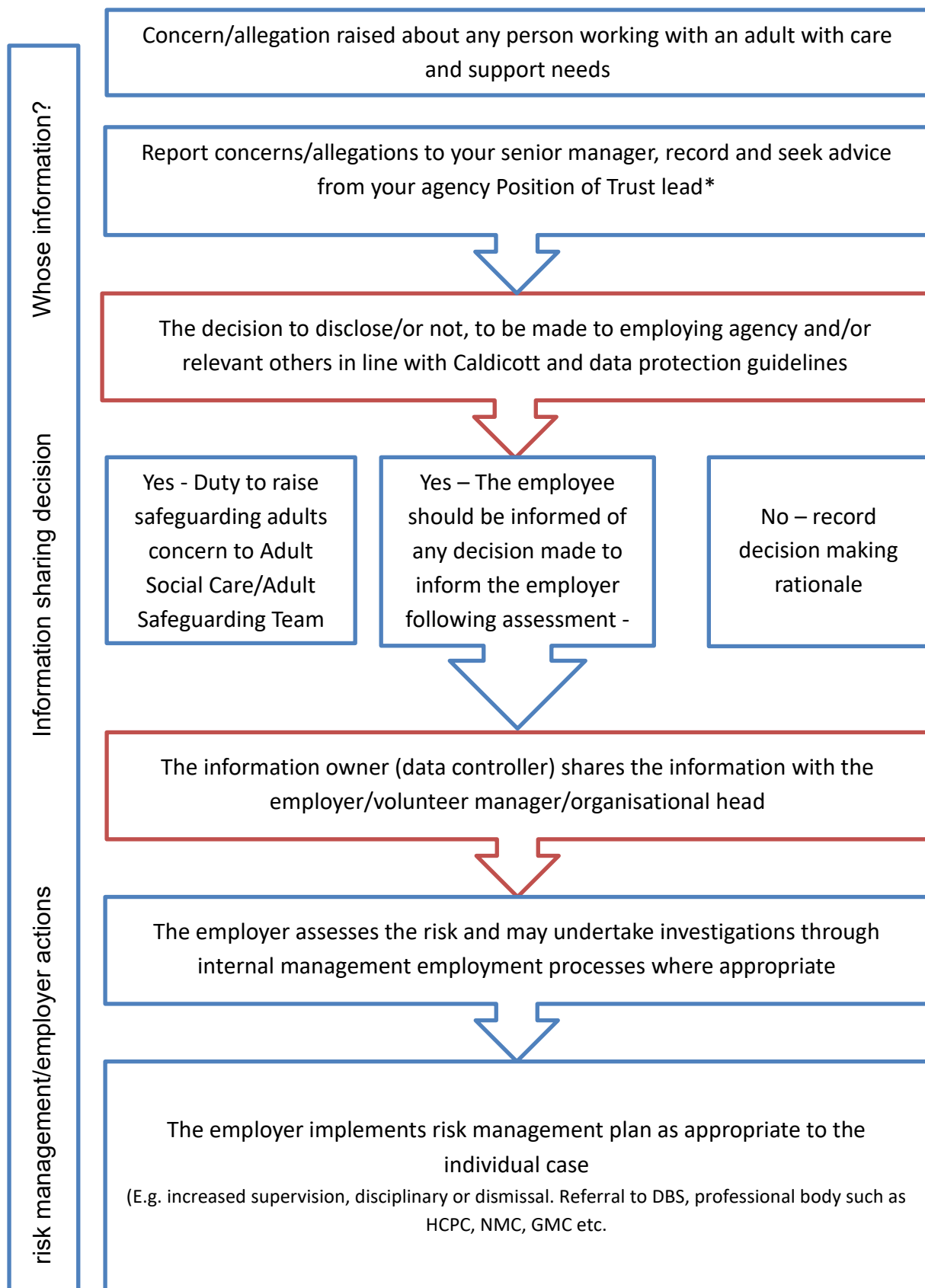
The Kent and Medway Safeguarding Adults Board will receive assurance through the annual self-assessment framework that each partner agency has arrangements in place to deal with allegations against a person in a position of trust within their organisation and that these are adequate and functioning effectively. Agencies will need to be able to provide evidence that they have nominated a lead PiPoT person to manage allegations. The SAB will in turn maintain oversight of whether these arrangements are considered to be 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.

## Escalation

If there is disagreement between agencies, they should follow the process set out in the "Kent and Medway Multi-Agency Resolving Practitioner Differences [Escalation Policy for Adult Safeguarding](#)"



## Flowchart



\*If a person who isn't connected to an organisation has a concern, they should contact the local authority for safeguarding advice