

## **Section 8: People in Positions of Trust (PiPoT)**

### **Introduction and principles**

- 8.1 It is a requirement of the Care Act 2014 Statutory Guidance that Safeguarding Adults Boards should establish and agree a framework and process for any organisation to respond to allegations against anyone who works, (in either a paid or an unpaid capacity,) with adults with care and support needs.
- 8.2 The management of any issues relating to People in Positions of Trust (PiPoT) are governed by the Data Protection Act 1998 and the principles outlined in the Act. Further guidance can be found in the West Midlands People in Positions of Trust (PiPoT) guidance.
- 8.3 Each organisation is responsible for the management and handling of its own information and is also responsible for issues of disclosure. Each agency should have a designated lead officer for managing issues relating to positions of trust.
- 8.4 Disclosure of confidential information without consent is to be considered on the basis of proportionality and information can be disclosed only if there is a 'pressing need' for that disclosure. This means:
- The legitimate aim in question must be sufficiently important to justify the interference;
  - The measures taken to achieve the legitimate aim must be rationally connected to it;
  - The means used to impair the right must be no more than is necessary to accomplish the objective;
  - A fair balance must be struck between the rights of the individual and the interests of the community; this requires a careful assessment of the severity and consequences of the interference.

### **Situations covered by the guidance**

- 8.5 Action may need to be taken in respect of a person in a Position of Trust in the following circumstances where there are concerns or evidence that:
- the person has harmed an adult or a child in a professional role;
  - the person has harmed an adult or a child in a personal relationship;
  - the person has harmed an adult or child in some other role or capacity

AND

- It is believed that the above behaviour poses a current or continuing risk in the person's current role or area of responsibility (whether paid or unpaid).

8.6 Concerns may be raised through a variety of processes including:

- Criminal investigations;
- Section 42 Enquiries;
- Children's Safeguarding Enquiries;
- Disciplinary investigations;
- Regulatory action or quality assurance monitoring;
- Reports from the public.

### **Required action**

8.7 The initial responsibility lies with each agency to determine whether it can identify and address issues internally, using its standard processes.

8.8 All agencies are reminded of their legal duty to make referrals to the Disclosure and Barring Service (DBS) when a person is dismissed or has left when they would have been dismissed for harming a child or an adult with care and support needs.

8.9 All agencies must consider whether they have information that may require disclosure to another organisation and, as the primary data controller, this decision lies with them.

8.10 Where an agency decides that information does need to be disclosed to another organisation it should, where practicable, give the person the opportunity to disclose the information.

8.11 If the person declines to share the information the agency must decide whether it is necessary and proportionate for this information to be shared and, if so, then this should take place. The information shared should be as little as is necessary in the circumstances and the person should be made aware of the decision to disclose the information.

### **Local Authorities**

8.12 As the Lead Agency of Adult Safeguarding the Local Authorities are often in receipt of sensitive information regarding people in positions of trust.

8.13 Each Local Authority will have a lead officer who can be contacted by internal and external colleagues about issues posed by people in a Position of Trust.

- 8.14 Local Authority officers will consider information that is shared with them and will normally encourage the organisations that are the data controllers to make decisions regarding disclosure.
- 8.15 In a smaller number of cases the agencies may not be willing or able to decide on whether disclosure is appropriate and in this situation the Local Authority may need to take a view on this.
- 8.16 There will be some circumstances where the information is not clearly in the possession of any data controller or where the information is provided by a private individual. In these cases the Local Authority will consider whether disclosure is necessary.
- 8.17 In certain cases where the person has links to several organisations or where there is a believed to be a risk to adults in several settings it may be necessary for the Local Authority to convene a meeting to consider the information that is held and to make decisions regarding disclosure and/or further action.
- 8.18 In any case where a person is believed to pose a risk to children the information should be shared with the Local Authority Designated Officer (LADO) for that Local Authority.

### **Recording**

- 8.19 Recording of discussions, decisions and disclosures is essential and each organisation must ensure that it has a process for recording this information. Any recording must be compliant with the requirements and principles of the Data Protection Act 1998.
- 8.20 Recording is likely to be subject to access requests unless there are strong grounds for this to be denied and in general processes should be as transparent and inclusive for the person involved as is possible.
- 8.21 Agencies must be clear regarding the retention schedule of any records that are kept and must be prepared to remove or destroy any records for which there is no longer any reasonable need.

