

**Sefton Council Practice  
Guidance for Managing  
Concerns and Allegations  
around People in  
Positions of Trust with  
Adults who have Care and  
Support Needs**

May 2021

## Contents

GLOSSARY .....	2
1.0 INTRODUCTION AND CONTEXT .....	2
2.0 SCOPE OF THE PRACTICE GUIDANCE... ..	4
3.0 HOW CONCERNS AROUND PIPO T MAY COME TO LIGHT .....	5
4.0 WHERE DOES RESPONSIBILITY LIE FOR RESPONDING TO A PIPO T CONCERN?.....	5
5.0 WHAT SHOULD THE RESPONSE TO A CONCERN BE?.....	5
6.0 INFORMATION SHARING .....	5
7.0 ROLES AND RESPONSIBILITIES.....	7
APPENDICES:	
Appendix 1 : FLOWCHART TO MANAGE CONCERNS AND ALLEGATIONS... ..	09
Appendix 2 : FACTORS TO CONSIDER.....	10
Appendix 3: PROPOSED REFERRAL FORM.....	11
Appendix 4: POSITION OF TRUST PLANNING MEETING AGENDA TEMPLATE.....	16
Appendix 5: POSITION OF TRUST CASE CLOSURE AGENDA TEMPLATE.....	17
Appendix 6: POSITION OF TRUST PLANNING MEETING MINUTES TEMPLATE.....	19

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## Glossary

<b>ADASS</b>	<b>Association of Directors of Adult Social Services</b>
<b>DBS</b>	<b>Disclosure &amp; Barring Service</b>
<b>Data Controller</b>	<b>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</b>
<b>Data Subject</b>	<b>An individual who is the subject of personal data</b>
<b>Data Processor</b>	<b>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</b>
<b>PiPoT</b>	<b>Person in a Position of Trust</b>
<b>SAB</b>	<b>Safeguarding Adults Board</b>

### 1.0 Introduction and Context

This Practice Guidance should be read in conjunction with the North West Policy for Managing Concerns around People in Positions of Trust with Care and Support Needs.

Section 6 (7) of the Care Act 2014 requires the Local Authority, relevant 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, for dealing with allegations and concerns against people who work, in either paid or unpaid capacity, with adults with 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 is for staff working within Sefton Council in order that an appropriate response is made to allegations or concerns against people who, whether an employee, volunteer or student, paid or unpaid, **works with or cares for** adults with care and support needs. These individuals are known as a Person in a Position of Trust (PiPoT). Practice Guidance should be read in conjunction with Sefton multi-agency safeguarding adults' policy and procedures.

Sefton requires its partner agencies to be individually responsible for ensuring they adopt the principles of the policy and maintain clear organisational procedures for dealing with PiPoT concerns. Sefton also requires partner agencies and the service providers they commission to identify a designated PiPoT lead or contact to oversee the delivery of responsibilities in their organisation.

The partner agency (or organisation commissioned by them to provide a service) who first identifies or becomes aware of an allegation or concern will be the primary **Data Controller**, or the "owner" of the information, and will have first responsibility for responding in accordance with policy and practice guidance.

Partner agencies and the service providers they commission are individually responsible for ensuring that information relating to PiPoT concerns are shared and escalated outside of their organisation in circumstances where this is *required, proportionate and appropriate*. They are responsible for making the judgment that this is the case in each instance where they are the **Data Controller**.

Each partner agency, in their annual assurance statement to the Safeguarding Adults Board, will be required to provide assurance that PiPoT arrangements within their organisation are functioning effectively. The Board will, in turn, maintain oversight of whether these arrangements are considered to be working effectively between and across partner agencies. Appropriate cross organisational challenge is an important part of this.

Local process is designed to ensure that 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.

This policy and practice guidance is not a substitute for, but may be used in conjunction with, other formal legal processes; for example: Multi-Agency Risk Assessment Meetings (MARAM), Multi-Agency Risk Assessment Conference (MARAC), Multi-Agency Public Protection Arrangements (MAPPA) etc.

## 2. Scope of the Practice Guidance

This Practice Guidance **must** be followed in all cases by the organisation when it **first** becomes aware of a concern, where information (whether current or historical) is identified regarding:

- the PiPoT's own work / voluntary activity with adults and / or children.

*Example: a worker or volunteer accused of abuse/neglect of an adult with care and support needs or a child.*

- the PiPoT's life outside work

*Example: a child accused of abusing an older mother. The accused works in domiciliary care.*

*Example: a person employed in day care, own children subject to child protection procedures as a result of emotional abuse and neglect*

**And** the person has:

- behaved in a way that has 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 towards an adult with care and support needs in a way that indicates unsuitability to work with adults with care and support needs.
- behaved in a way that 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 consequently means their ability to provide a service to adults with care and support needs must be reviewed.
- behaved in a way which questions their ability to provide a service to an adult with care and support needs which must be reviewed e.g. conviction for grievous bodily harm against someone who is not an adult with care and support needs.

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), contactable for Sefton via 0345 140 0845

### **What is excluded?**

If an allegation relates to the action of a professional, or volunteer which 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 Sefton Adult Safeguarding Policies and procedures.

### **3.0 How concerns around a PiPoT may come to light**

Concerns around a PiPoT's 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

### **4.0 Where does responsibility lie for responding to a PiPoT concern?**

The partner agency or service provider that they commission, who **first** becomes aware of the allegation or concern will be the **primary** Data Controller, **or owner of the information**.

## 5.0 What should the response to the concern be?

Where Sefton Adult Social Care is the data controller the PiPoT referral should be sent without delay to [joan.coupe@sefton.gov.uk](mailto:joan.coupe@sefton.gov.uk). The information will be screened and actioned accordingly.

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

In the event of a conclusion being reached **NOT** to progress down PiPoT route a full record of discussion and decision must be kept that could be drawn on in the event of any further concern or allegation being made.

Any PiPoT about whom that are concerns must be treated fairly and honestly. Employers have a duty of care towards them. 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 individual to the Disclosure and Barring Service (DBS)**. **Employers should further consider reporting of workers to statutory and other bodies responsible for professional regulation such as Health and Care Professions Council, General medical Council, and the Nursing and Midwifery Council.**

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 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 and the rationale for decision-making 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 contained within this Protocol, whether to agree with this request.

If agreement is reached for information **not** to be shared, 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 an individual relating to information about them being shared (for example, impact on a person's right to a private and family life - Article 8 Human Rights Act)

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

- *Everyone has the right to respect for his private and family life, his home and his correspondence.*

**and**

- *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 an individual'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 principles<sup>1</sup>:

- 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 interference <sup>2</sup>.

*"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."*<sup>3</sup>

*Before 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 disclosed<sup>4</sup>. "The imposition of such a duty is a necessary ingredient of the process if it is to be fair and proportionate."*<sup>5</sup>

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 principles of the DPA to decide whether breaching a PiPoT's confidentiality is in the public interest.

If, after weighing up all information available, 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

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

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

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

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

<sup>5</sup> Ibid per Lord Neuberger (para [84])

the reasons for it should be accurately recorded. However, the PiPoT planning process must identify the earliest opportunity for them to be informed

## 7.0 Roles and Responsibilities

### Sefton Contact Centre

- Determine if information requires a PiPoT referral or an alternative pathway and, if Sefton Council is the data controller (person works in Sefton with people with care and support needs)
- Complete PiPoT referral form ensuring all information is recorded
- Interrogate information systems to determine if adult social care holds any other relevant information to the PiPoT concern
- Send PiPoT referral to [joan.coupe@sefton.gov.uk](mailto:joan.coupe@sefton.gov.uk)
- If a PiPoT referral requires immediate action contact Joan Coupe or Mark Waterhouse via email to arrange further discussion

### Governance Lead:

- The PiPoT referral will be screened and if necessary action is considered necessary engage the services of a Senior Manager
- Reporting systems interrogated for additional relevant information
- Meeting scheduled with Legal, Safeguarding Governance and relevant others to risk assess available information and determine whether or not to disclose allegation/ concern to the worker's / volunteer's employer utilising the Guidance Toolkit appendix 2
- Where this allegation concerns the worker's / volunteer's own health consideration should be given to engaging appropriate services with the consent of the individual
- PiPoT issues and outcomes to be recorded in a secured folder. Details to include referrer, PiPoT, concern, actions taken and decisions taken. Records to be kept in accordance with GDPR
- In the event of a decision being reached to disclose to the employer a letter is to be sent by the data controller to the individual to advise of the proposed actions, allowing sufficient time for the individual to personally disclose to the necessary parties.
- In the event of a decision to disclose to the individual's employer but NOT to inform the individual, the data controller must send a letter to the Chief Executive / Director of the individual's work
- PiPoT activity data reported to Sefton Safeguarding Adults Board
- 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 moving forward

Primary duties of a **Managing Officer** are:

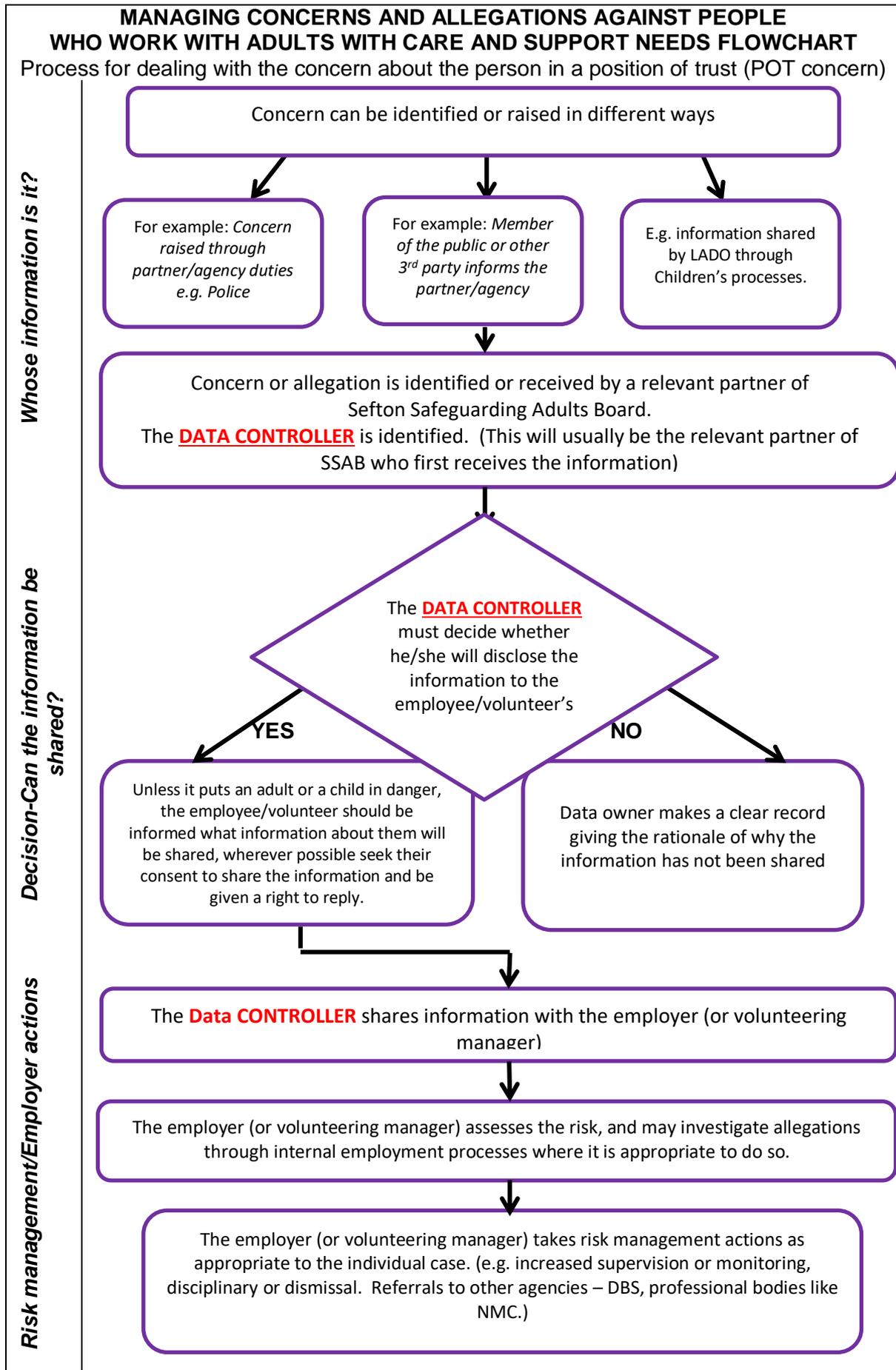
*(The Managing Officer is the Sefton ASC representative who is co-ordinating a s42 safeguarding enquiry, so this applies in circumstances where Sefton is responding to an adult safeguarding concern where there is also a PiPoT issue)*

- inform the PiPoT Governance Lead of concern without delay
- where there is no concurrent police investigation, take responsibility for deciding what information should be shared with whom and on what basis. Ensure accurate recording
- liaise with LADO as appropriate
- liaise with other Local Authority Departments where there are cross border issues

## 8.0 Record Keeping of PiPoT Issues

- Accurate record keeping is essential in all PiPoT cases
- Individuals responsible for investigation and management of PiPoT concerns must as far as is practicable, contemporaneously document 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
- Individuals, including a PiPoT subject of the recording, are entitled to access of 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

### 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 & 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

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	May be subject to abuse themselves indicating their ability to provide a service to adults with care and support needs must be reviewed
	Behaved in a way which questions their ability to provide a service to an adult with care and support needs which must be reviewed e.g. conviction for grievous bodily harm

**PERSON IN A POSITION OF TRUST DETAIL**

**Personal Detail of Employee/ Volunteer who is subject of concern**

<b>Name:</b>			
<b>DoB:</b>		<b>Contact Number:</b>	
<b>Home Address:</b>			
<b>Current Address (if different)</b>			

**Other Household Members (including non-family members)**

Name	Date of Birth	Relationship	Parental Responsibility?	
			Yes	No

<b>Organisation &amp; Address Person in a Position of Trust works/ volunteers for:</b>	
--	--

<b>Is the organisation CQC Registered?</b>	<b>Yes / No</b>
--	-----------------

<b>Job Title &amp; Role</b>	
-----------------------------	--

<b>Does the PiPoT have a professional registration? (e.g. HCPC, NMC, GMC etc.)</b>	<b>Yes / No</b> <b>State: NMC/ GMC / Specify</b>
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<b>Manager Details at Employing Organisation</b>	<b>Name: Address: Email: Telephone:</b>
<b>Current Employment Status:</b>	
<b>Has person been referred to PiPoT before?</b>  <b>When?</b>  <b>What were the concerns and the outcome?</b>	<b>Yes / No</b>
<b>Does the Person in a Position of Trust Know of this Referral?</b>	<b>Yes / No</b>
<b>If not why not?</b>	

<b>INCIDENT / CONCERN DETAILS</b>	
<b>Brief factual description of concern: Include who has reported; where and when it occurred; who was the victim; if safeguarding is involved; any witness detail; what has been alleged</b>	
<b>Was the victim a child or adult with care and support needs? Please provide detail</b>	

Are there Adult or Children safeguarding procedures currently in process?  Has LADO been advised?	Adults: Yes / No Children: Yes / No  Yes / No
Police Crime Reference Number (if applicable)	
<b>ALLEGED VICTIM DETAIL</b>	

<b>No. of Alleged Victims</b>	
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Name 1 <sup>st</sup> Person		LAS Number( <i>if applicable</i> )
DoB	Gender: M/F	
Relationship to PiPoT:		
Name 2 <sup>nd</sup> Person		LAS Number( <i>if applicable</i> )
DoB	Gender: M/F	
Relationship to PiPoT:		

*Copy and paste if more alleged victims*

*Please provide names of key individual connected to the PiPoT as PiPoT Lead / Managing Officer will need to consider who to invite to PiPoT meeting :*

Job Role/ Title	Name	Organisation	Tel. No.	Email
Supervisor / Line Manager				
HR/ Personnel				
Provider Manager				
Police Contact				
Commissioning Contact				
CQC				
Health				
Other				

**Please provide names of key individual connected to the alleged victim(s) as PiPoT Lead / Managing Officer will need to consider who to invite to PiPoT meeting :**

Job Role/ Title	Name	Organisation	Tel. No.	Email
Social Worker				
Health Professional				
Advocate				
Provider				
Voluntary Agency				
Commissioner				
Other				

**For Completion by PiPoT Lead / Managing Officer – PiPoT Case Recording ( record Name after each entry or group of entries**

PiPoT Lead / Managing Officer ADVICE	PiPoT Lead / Managing Officer ACTIONS
DATE Referral received	

PiPoT Lead DECISION	
Not Adult PiPoT Referred to another process/ procedure ( specify) <input type="checkbox"/>	Initiate PiPoT procedures <input type="checkbox"/>
Request further information from Referrer ( Referrer to action) <input type="checkbox"/>	Request further information from other sources ( PiPoT Lead to action ) <input type="checkbox"/>
Refer to other PiPoT Lead for action <input type="checkbox"/>	Refer to LADO <input type="checkbox"/>
PiPoT Lead DECISION DATE	

**For completion by PiPoT Lead - PiPoT Case Recording (Record name after each action or group of entries)**

Date / Time	Recording	Outcome / Actions	Contact Details

**Position of Trust Planning Meeting Agenda Template**

<b>Chair</b>		<b>Date</b>	
<b>Start Time</b>		<b>Finish Time</b>	
<b>Venue</b>		<b>Minute Taker</b>	
<b>Person in a Position of Trust</b>		<b>Employer and Role</b>	

**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 individuals 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 an individual 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 Sefton Council Position of Trust Policy and Practice Guidance (2017) to :

- Share information
- Agree actions to be taken, by whom and by when
- Risk assess

**Agenda**

<b>1.</b>		Introduction and Confidentiality Statement
<b>2.</b>		Detail of allegation/ concern (to include current and previous allegations/ concerns, details to whom the allegation/ concerns relate to)
<b>3.</b>		How this is relevant to employment / volunteering activity with adults with care and support needs
<b>4.</b>		Relevant information from attendees
<b>5.</b>		Risk assessment: To consider the safety of the adult/s concerned To consider the safety of other adult/s and/or children

<b>6.</b>		Agree support to the Person in a Position of Trust
<b>7.</b>		Agree feedback mechanism to the referrer ( who, what when)
<b>8.</b>		Planning the management of the allegation
<b>9.</b>		Consider strategy for media enquiries ( if relevant)
<b>10.</b>		Next steps including detail of further meetings

**Position of Trust Case Closure Agenda Template**

<b>Chair</b>		<b>Date</b>	
<b>Start Time</b>		<b>Finish Time</b>	
<b>Venue</b>		<b>Minute Taker</b>	
<b>Person in a Position of Trust</b>		<b>Employer and Role</b>	

**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 individuals 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 an individual should be barred from working with children or adults with are and support needs.

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

The minutes should not be photocopied or shared with the agreement of the Chair.

**Purpose of the Meeting**

This meeting is held under Sefton Council Position of Trust Policy and Practice Guidance (2017) to:

- Gain Feedback from agreed actions from the PiPoT planning meeting or discussions
- Reach a formal determination of the case
- Further Risk Assess

**Agenda**

<b>1.</b>		Introduction and Confidentiality Statement
<b>2.</b>		Summary of original allegation/ concern
<b>3.</b>		Feedback of agreed actions from planning meeting or discussion
<b>4.</b>		Risk assessment: To consider the safety of the adult/s concerned To consider the safety of other adult/s and/or children
<b>5.</b>		Agree formal determination of the case

<b>6.</b>		Agree actions (including disciplinary action. Referral to regulator and professional bodies i.e. HCPC, GMC, Disclosure and Barring Service )
<b>7.</b>		Consider strategy for media enquiries ( if relevant)
<b>8.</b>		Agree feedback to the person in a position of trust
<b>9.</b>		Agree feedback mechanism to the referrer and relevant others
<b>10.</b>		AoB

### Position of Trust Planning Meeting Minutes Template

<b>Chair</b>		<b>Date</b>	
<b>Start Time</b>		<b>Finish Time</b>	
<b>Venue</b>		<b>Minute Taker</b>	
<b>Person in a Position of Trust</b>		<b>Employer and Role</b>	

<b>Present</b>	
<b>Apologies</b>	
<b>Non-Attendees</b>	
<b>Confidentiality Statement Read?</b>	
<b>Detail of allegation/ concern</b>	
<b>How Relevant to employment / voluntary work</b>	
<b>Agreed Feedback mechanism to Referrer</b>	
<b>Risk Assessment outcome</b>	
<b>Agreed support to PiPoT</b>	

<b>Planning management of the allegation / concern</b>			
	<b>Action</b>	<b>By Whom</b>	<b>By When</b>
<b>1.</b>			
<b>2.</b>			
<b>3.</b>			
<b>4.</b>			
<b>5.</b>			
<b>Strategy for media enquiry</b>			
<b>Next Step</b>			
<b>AoB</b>			

**This record is issued in the belief that it accurately reflects the meeting. Please contact the Chair within 7 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.**