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business

East Riding Safeguarding Adults Board

Protocol for responding to concerns about a person in a Position of Trust

RESPONSIBILITIES OF ALL SAB PARTNER AGENCIES

1. INTRODUCTION

1.1 It is a requirement of the Care Act 2014 Statutory Guidance (14.121) 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. This framework and process hereafter is referred to as the “Protocol”.

1.2 This Protocol applies to all partner agencies of the East Riding Safeguarding Adults Board (ERSAB), and organisations commissioned to provide services by them, so they respond appropriately to allegations 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 People in a Position of Trust (PiPoT).

1.3 ERSAB requires its partner agencies to be individually responsible for ensuring they adopt the principles of this Protocol and maintain clear organisational procedures for dealing with PiPoT concerns.

1.4 ERSAB requires each partner agency to identify a lead person who will manage allegations against People in a Position of Trust. For concerns about a vulnerable adult it is suggested that this is the lead officer who has overall responsibility for adult safeguarding.

1.5 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.

1.6 Care Act 2014 Statutory Guidance (14.132) states that 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
- When there is a specific need for the information to be shared at the time.

1.7 This Protocol is designed to inform and support the decision making processes of partner agencies and their commissioned services once they become aware of a PiPoT concern arising from whatever source.

1.8 The ERSAB will 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.

1.9 This protocol applies whether the allegation relates to a current or an historical concern.

1.10 This Protocol is not a substitute for, but may be used in conjunction with, other formal legal processes; for example Multi-Agency Risk Assessment Conference (MARAC), Multi-Agency Public Protection Arrangements (MAPPA) etc. Nor should it replace any referral to the Police, safeguarding or regulatory body for investigation.

2. SCOPE

2.1 This Protocol must be followed in all cases by the organisation which first becomes aware of a concern, where information (whether current or historical) is identified in connection with:

2.1.1 The PiPoT's own work / voluntary activity with adults and / or children (for example where a worker or volunteer has been accused of the abuse or neglect of an adult with care and support needs or a child).

2.1.2 The PiPoT's life outside work i.e. concerning adults with care and support needs in the family or social circle (for example where a son is accused of abusing his older mother and he also works as a domiciliary care worker with adults with care and support needs. Or where a woman is convicted of grievous bodily harm and also works in a residential home for people with learning disabilities).

2.1.3 The PiPoT's life outside work i.e. concerning risks to children, whether the individual's own children or other children (for example where a woman is employed in a day centre for people with learning disabilities but her own children are subject to child protection procedures as a result of emotional abuse and neglect).

And the person has:

2.1.4 Behaved in a way that has harmed or may have harmed an adult with care and support needs.

2.1.5 Possibly committed a criminal offence against or related to an adult with care and support needs.

2.1.6 Behaved towards an adult with care and support needs in a way that indicates h/she is unsuitable to work with adults with care and support needs.

2.1.7 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.

2.1.8 May be subject to abuse themselves and as a consequence means their ability to provide a service to adults with care and support needs must be reviewed.

2.1.9 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.

2.2 Appendix 2 will aid the decision making process.

3. HOW MIGHT A CONCERN ABOUT A PiPoT BE IDENTIFIED AND MANAGED

3.1 The attached flowchart appendix 1 demonstrates how such concerns should be reported and managed.

3.2 The attached table appendix 2 demonstrates the type of action which is required depending on the nature of the case.

4. INFORMATION SHARING

4.1 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 the person about whom the allegation is made is given the opportunity to share the 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. In deciding whether to share the information with an employer or voluntary organisation, the principles in this section (Section 4) should be followed.

4.2 If the PiPoT asks the data controller not to share the information, a decision must be made by the data controller, in line with the principles contained within this Protocol, whether to agree. If it is agreed that information will not be shared, this must be qualified and recorded since it may be the case that more detail comes to light to change this decision. If a decision is made at a later date to share information, the PiPoT should be consulted again and given a further opportunity to disclose the information him or herself if it is appropriate to do so. Again, the data controller could, following the principles for disclosure in this section (Section 4) decide to share the information even if the PiPoT decides not to. All decisions to share or not share information, and their rationale should be clearly recorded.

4.3 In each case involving an allegation 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 individuals of information about them being shared (for example, upon the person's Article 8 Human Rights, the right to private and family life).

4.4 For these reasons each case must be considered on its own merits and personal data shall be processed in accordance with the principles contained in Part I of Schedule 1 of the Data Protection Act 1998 ("the DPA").

4.5 Each case needs to be considered on the facts, in short:

- Establish the facts, are the facts accurate, how has the information been obtained, has it been verified?
- Is the information relevant? Is there risk of harm to others? What is the risk?
- If the decision is that the information should be shared to protect others check whether it fits with any of the exemptions under the Data Protection Act and if not record reasons as to why information should be shared. Consider the risks to both potential victims and the risk to the alleged perpetrator.

- Contact the alleged perpetrator (if appropriate) to seek consent to share with an employer and if refused consider this, and then record the reason for the disclosure. There is a need to consult with the person whose information is being disclosed to give them an opportunity to make representations before the information is disclosed.
- Decide what information is relevant to share and record the information shared and inform the alleged perpetrator what information has been shared. When sharing the information without the permission of the perpetrator, the decision and reasons must be very clearly recorded.

4.6 Information may be shared by an individual or an agency in the expectation that it will not be shared with others; i.e. it will be kept confidential. Often, a person will preface the disclosure with 'I am telling you this in confidence' or, after making the disclosure, will say 'you won't tell anyone will you?' However, no blanket agreement not to share information with others must be given. Confidential information can be shared if it is justified as being in the **public's interest** e.g. **for the detection and prevention of crime and for the protection of vulnerable persons, i.e. children or adults with care and support need at risk of harm or neglect**. 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's interest**.

5. RECORDING OF PiPoT ISSUES

5.1 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 PiPoT. All cases should be recorded in accordance with this Protocol.

5.2 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.

5.3 Records of actions taken to investigate PiPoT concerns which have been found to be without substance must also be retained so as to build up any history.

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

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

5.6 The purpose of the PiPoT record-keeping is to:

5.6.1 Enable accurate information to be given in response to any future request for a reference.

5.6.2 Provide clarification in cases where a future DBS Disclosure reveals information from the police that an allegation was made but did not result in a prosecution or conviction.

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

5.6.4 Enable patterns of behaviour which may pose a risk to adults with care and support needs to be identified.

5.6.5 To assure the Safeguarding Adults Board that adults with care and support needs are protected from harm.

6. COMPLEX CASES

6.1 Many PiPoT concerns will be proportionately dealt with through straightforward employment management processes. Other circumstances will be more complex and require appropriate planning at each stage. This planning may include:

6.2 Identification of key stakeholders

These could include:

- The Employer (supervisor/line manager/ HR manager)
- The Commissioner of a commissioned service contract
- The appropriate service regulator (e.g. CQC, Ofsted)
- The Police where there is a criminal concern
- The social worker of an adult with care and support needs
- Children's Services if children are involved
- Other case specific e.g. University representative if a student

6.3 PiPoT planning discussion / meetings

6.3.1 The relevant PiPoT Lead or Safeguarding Officer will need to decide on the grounds of urgency and risk the best way to share information, risk assess and plan the lines of enquiry. The options would be a discussion, conference calls or a formal meeting. More complex cases and / or those with many stakeholders are likely to require a meeting or series of meetings. Appropriate records should be kept.

6.3.2 The planning discussion / meeting should cover the following areas and be clearly recorded:

- Confidentiality agreement
- Sharing the PiPoT concern and purpose of the meeting
- Information from data controller and attendees
- Risk assessment
- Whether a crime has been committed

- Agree lines of enquiry (who is doing what and by when)
- Identify actions to be taken in respect of adults with care and support needs
- Identify who will support the PiPoT
- Timescales for actions and feedback
- Agree next step and actions.

6.4 Progress monitoring and timescales

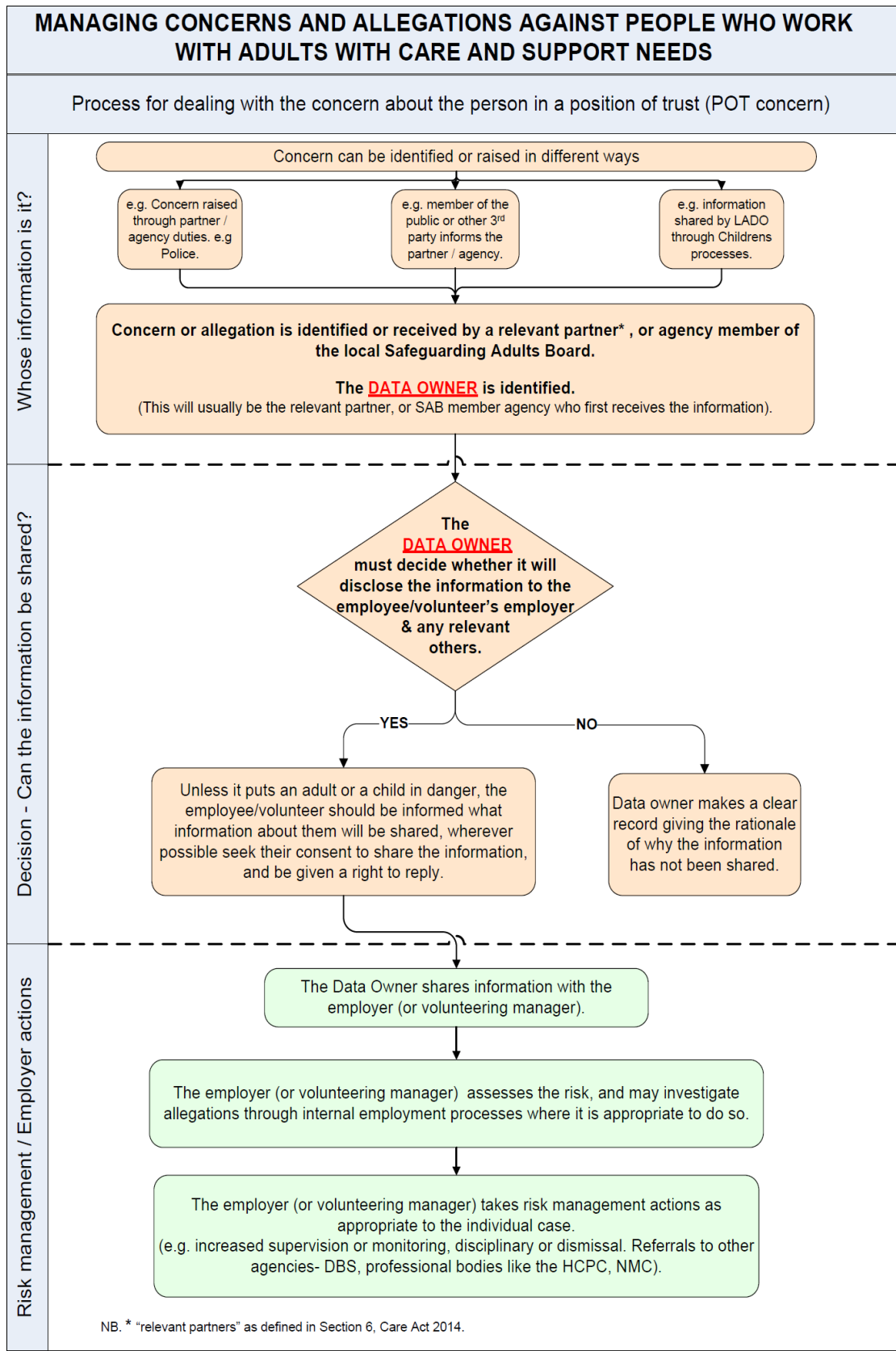
6.4.1 It is important that PiPoT concerns are managed in a timely way. This is the role of the appropriate PiPoT Lead overseeing the PiPoT enquiry. Timescales should be identified at the planning stage. Regular monitoring is essential to ensure procedures are kept on track and risks are managed. Additional meetings can take place at any time as deemed necessary.

6.5 Evaluation and conclusion

6.5.1 It is important these cases have a robust evaluation and conclusion. This should include the following areas:

- Share the results of enquiries (e.g. results of disciplinary processes) and assess if they are adequate or if further work is required.
- Risk assess, including transferable risk (e.g. child protection, risk to adults with care and support needs).
- Make recommendations for required actions
- Feedback mechanisms (to whom, by whom)
- Determine if further work is required or case closure.

Appendix 1 – FLOWCHART



IS A S42 SAFEGUARIDNG ENQUIRY STILL REQUIRED AFTER THE ABOVE ACTIONS HAVE TAKEN PLACE ? Refer to Appendix 2

Appendix 2

Factors to consider for S42 or other type of enquiry

QUESTIONS	No cause for concern	Some cause for concern requiring investigation	Cause for concern
1. The person has behaved in a way that has harmed 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
2. 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
3. Behaved towards an adult at risk in a way that indicates person is unsuitable to work with adults with care and support needs?	No	Yes	
4. Has the person behaved in a way that has harmed children (or may have) which means their ability to provide a service to adults with care and support needs must be reviewed?	No	Yes	
5. May be subject to abuse themselves which means their ability to provide a service to adults with care and support needs must be reviewed.	No	Yes	
6. 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 not to a person with care and support needs.	No	Yes	
REQUIRED ACTION →	ALL GREEN NOT SAFEGUARDING OR PiPoT	MORE THAN TWO AMBER – FOLLOW PiPoT PROCEDURE	ONE OR MORE RED – FOLLOW SAFEGUARDING PROCEDURES