



Derby and Derbyshire Safeguarding Adults Boards

Managing Allegations against Persons in Position of Trust (PiPoT) Policy and Practice Guidance

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Managing Allegations against Persons in Position of Trust (PiPoT)

1.0. Introduction

Under the Care and Support statutory guidance of the Care Act 2014, Derby and Derbyshire Safeguarding Adult Boards are required to have a clear framework and process for how allegations against people working with adults with care and support needs (people in positions of trust) should be notified and responded to.

There are occasions when incidents are reported that do not involve an adult at risk but indicate that a risk may be posed to adults with care and support needs by a person in position of trust. The guidance for 'Managing allegations against People in a Position of Trust' is contained within section 14 of the Care and Support Statutory Guidance of the Care Act 2014. This policy gives guidance about the following considerations: information sharing; employer responsibilities; risk assessments and employee rights. Other relevant legislation to be considered includes the Data Protection Act 2018, UK General Data Protection Regulation [UK GDPR]; Human Rights Act 1998, Crime and Disorder Act 1998 and employment legislation.

The Safeguarding Adults Boards (SABs) work to the following six key safeguarding principles as defined in the Care Act 2014:

- **Empowerment** – Derby and Derbyshire people will be supported and encouraged to make their own decisions through informed consent
- **Prevention** – It is better to take action before harm occurs
- **Proportionality** – The least intrusive response appropriate to the risk
- **Protection** – Support and representation for those in greatest need
- **Partnership** – Solutions will come from agencies working together, with all communities in Derby and Derbyshire having a part to play in preventing, detecting and reporting neglect and abuse
- **Accountability** – The work of the Boards will be transparent and accountable to Derby and Derbyshire people.

This policy relates to instances where an agency is alerted to information about a person in a position of trust (PiPoT) that may affect the suitability of a professional or volunteer to work with an adult(s) with care and support needs.

Examples of such concerns could include allegations that 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 that they may pose a risk of harm to adults with care and support needs.

This could relate to activity both within and outside of their professional or volunteer role and place of work as there could be risk implications in relation to the employment or volunteer work of a person in a position of trust.

The following are excluded from this Policy:

- If an allegation is made that relates to alleged abuse or neglect of a person with care and support needs and this requires a safeguarding adults enquiry (S42 of the Care Act 2014), then this should be dealt with by following the Derby and Derbyshire safeguarding adult policy and procedures and internal agency HR processes
- If the employer is aware of concerns about a staff member, it is their responsibility to manage the risks around this (unless this is also a safeguarding adults concern- see above). This policy however does provide some guidance about employers' responsibilities. Please refer to *Section 2, Responsibilities* for further guidance.
- Where there is a complaint about a individual working or volunteering with adults who may be at risk and the concerns are raised about the quality of practice provided by the PiPoT, but these do not pose a specific risk to adults or children, other relevant bodies and their procedures should be used to recognise, respond to and resolve these issues, such as complaints processes or contract management processes. This may also include referral to Care Quality Commission (CQC), Nursing and Midwifery Council (NMC),

General Medical Council (GMC), Health and Care Professions Council (HCPC), Social Work England, or similar.

2.0. Derby and Derbyshire Safeguarding Adults Boards

It is expected that all partner agencies of the Derbyshire Safeguarding Adults Board and the Derby Safeguarding Adults Board have a referral pathway agreed for PiPoT referrals. Each partner agency, in their annual assurance statement to the applicable SAB, will be required to provide assurance that arrangements to receive and manage allegations against a PiPoT, within their organisation are in place and are functioning effectively. The SABs will, in turn, maintain oversight of whether these arrangements are 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.

Partner agencies may be required to provide data to the SABs in relation to the number of PiPoT referrals received by the agency, how many referrals were accepted and progressed through the PiPoT process and outcomes of referrals as part of SAB quality assurance processes.

2.1. Safeguarding Adult Board partners responsibilities

Safeguarding Adult Board partners for Derby Safeguarding Adults Board are listed here: [About the Board - Derby Safeguarding Adults Board](#)

Safeguarding Adult Board partners for Derbyshire Safeguarding Adults Board are listed here: [Membership - Derbyshire Safeguarding Adults Board](#)

Each agency is responsible for managing risk around any PiPoT concerns related to their own staff and should they become aware of potential PiPoT concerns about individuals working for other agencies, they are responsible for applying this policy and where necessary referring to the employer.

Please refer to Appendix 4 for template for letter to inform an employer and PiPoT process guidance.

2.2. Other partner agencies

Other partner agencies, for example adult education, voluntary organisations and care provider services should ensure their safeguarding leads and managers are aware of this Policy and should they become aware of any potential PiPoT concerns about a person who works for another organisation, they should:

- Refer to the PiPoT guidance and referral form on the Derbyshire and Derby SAB websites.
- Consider whether the threshold for disclosure is met and if so, use the PiPoT referral form to make a disclosure to the employer of the PiPoT using the PiPoT referral form (Appendix 5). **Please note that the relevant Safeguarding Adults Board and Local Authority do not need to be informed of the referral when it relates to a partner agency.**
- Consider whether to inform to the Police. The Police should always be informed if a crime is known or suspected.
- Consider whether to make a Safeguarding adult referral (the [adult safeguarding decision making guidance](#) should be used to inform whether a safeguarding adult referral should be made).

The referral form at Appendix 5 should be used for PiPoT referrals. Appendix 6 contains the latest known list of agency contacts information for PiPoT referrals. It is advisable to send an enquiry email to confirm that the contact email address is still correct prior to sharing person identifiable information.

2.3. Managing allegations about employees

It is expected that all Board partner agencies and organisations will have appropriate policies and procedures in place to manage allegations against their staff. Policies and procedures should be clear and accessible, setting out their process for managing risk should they become aware of a PiPoT concern about a member of

their staff. These should determine who should undertake an investigation, including setting timescales and how support and advice will be made available to individuals against whom allegations have been made. Any allegations against people who work with adults, should be reported immediately to a senior manager within the organisation. There should be a designated manager for allegations. Employers should have their own source of advice (including legal advice) in place for dealing with concerns. If concerns are raised about someone who works with adults with care and support needs, it will be necessary for the employer to assess any potential risk to adults with care and support needs who use their services and, if necessary, to take action to safeguard those adults. This includes considering which regulatory bodies need to be notified by their employer.

Where allegations are about a Managing Director/Owner of an organisation and there are no management structures, HR teams, or boards above them that could respond to the allegations and for those not registered with the Care Quality Commission, the referrals should be sent to the relevant Safeguarding Adults Board.

2.4. Allegations regarding a PiPoT who works outside of Derby or Derbyshire

The deciding factor is about where the PiPoT works, not where they live. As such any PiPoT matters should be addressed in line with the local area PiPoT /allegations guidance.

2.5. Responsibilities when there are potential risks to children

When a person's conduct towards an adult may impact on their suitability to work with, or continue to work with children, this must also be referred to the Local Authority Designated Officer (LADO) [Derby and Derbyshire 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.

2.6. Responsibilities of the agency with information about the PiPoT (Data Controller)

If an organisation is in receipt of information that gives cause for concern about a PiPoT, the organisation should give careful consideration as to whether they should share the information with the person's employer, to enable them to conduct an effective risk assessment if they are a safeguarding board partner agency listed under 2.1 of this guidance.

The receiving organisation becomes the Data Controller as defined by the Data Protection Act 2018 and UK GDPR; Article 4 (please refer to Section 4, Legal Framework, Employer's responsibilities when they are made aware of PiPoT concerns).

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. 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.

It should be noted that there are circumstances where there is a legal duty to refer to the Disclosure and Barring Service (DBS) placed on regulated activity providers and personnel suppliers. There is also a power to refer when an organisation is not acting as the regulated activity provider. More information on this can be found on [Making barring referrals to DBS - GOV.UK](#).

If, following an investigation, a PiPoT 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 a criminal offence to fail to make a referral without good reason. This includes situations where if the person in a PiPoT resigns, retires or leaves before any investigation is completed. As long as all of the conditions of making a barring referral have been met then this referral should be completed regardless of whether the person is still employed, or whether an organisation has accepted or not accepted the person's resignation.

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, Social Work England, General Medical Council and the Nursing and Midwifery Council where appropriate. Where there is a requirement placed on the professional to self-refer to their regulatory body, this should be reinforced by the employer.

If a person subject to a PiPoT investigation attempts to leave their employment by resigning in an effort to avoid the investigation or disciplinary process, the employer (or student body or voluntary organisation), should conclude the process which has been utilised with the evidence before them. 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.

3.0. 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. Data protection should not be a barrier for sharing information.

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

- where there is a legal justification for doing so (this is not the Data Protection Act but comes from underlying legislation). Where there is a suspicion that a crime has occurred, contact should be made with the Police to ensure relevant information is 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 that time is shared securely

Information on Derby Safeguarding Adults Board Information Sharing Agreement can be found on: [DSAB – Information Sharing Agreement](#).

Information on Derbyshire Safeguarding Adults Board Information Sharing Agreement can be found on: [Derbyshire SAB- Information Sharing Agreement](#).

3.1. Timescales

This policy still applies when the allegation or incident is non-recent. Whilst there are no specific timescales for managing PiPoT related matters, it is expected that partner agencies respond in a timely manner upon receiving information, depending on the circumstances and risks.

4.0. Legal Framework

Both the Data Protection Act 2018 and the UK GDPR define the following:

Data Subject - an individual who is the subject of personal data. In other words, the data subject is the individual whom particular personal data is about. Personal data is not just about names or addresses, it can be situation or circumstances from which someone can be identified or associated with. The Act does not apply to an individual who has died or who cannot be identified or distinguished from others.

Data Controller - 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.

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.

The Data Controller 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, usually providing a technical service, acting on the instruction of the data controller.

Processing - means use of personal or special category data; everything from the collection of personal data to its eventual disposal.

Data Protection legislation (Appendix 1) requires anyone handling personal information to comply with the principles set out in the Act:

- personal data must be processed fairly, lawfully and in a transparent manner,
- personal data must be processed for specified, explicit and legitimate purposes,

- personal data must only be processed to the extent it is required to do a job; only the minimum must be used,
- personal data must be processed accurately; collected appropriately and kept up-to-date personal data must not be retained for longer than is necessary in an identifiable form and
- personal data must be kept secure

The Information Commissioner's Office (ICO) upholds information rights in the public interest. In addition to complying with the principles, Data Controllers must be accountable for their compliance and be able to support Data Subject Rights. For 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 Police possess a common law power to share personal sensitive information with third parties where a “pressing social need” can be established. A pressing social need might be the safeguarding, or protection from harm, of an individual, a group of individuals, or society at large. The third-party recipient of the disclosure under common law, will usually be an employer or other body for which the individual works, including in a voluntary capacity. The primary trigger for consideration of the need to make such disclosure will be the arrest or voluntary interview of an individual for an alleged relevant offence.

The Human Rights Act 1998

The principles set out in the Human Rights Act must also be considered 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 public authorities 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.

Appendix 1: Data Protection Act 2018 and UK GDPR overview

Personal data means data which relate to an identifiable natural person who can be identified from those data, such as name, an identification number, location data, online identifiers or data relating to physical, physiological, genetic, mental, economic, cultural or social identity.

Special category data, in Article 9 of the UK GDPR data means personal data consisting of information as to:

- the racial or ethnic origin of the data subject,
- his / her political opinions,
- his / her religious beliefs or other beliefs of a similar nature,
- whether he / she is a member of a trade union (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992),
- genetic / biometric data of the purpose of identifying a natural person,
- his / her physical or mental health condition,
- his / her sexual orientation

The Act regulates the “processing” of personal data. Processing in relation to information or data, means obtaining, recording or holding the information or data or carrying out any operation or set of operations on the information or data, including:

- organisation, adaptation or alteration of the information or data,
- retrieval, consultation or use of the information or data,
- disclosure of the information or data by transmission, dissemination or otherwise making available,
- alignment, combination, blocking, erasure or destruction of the information or data.

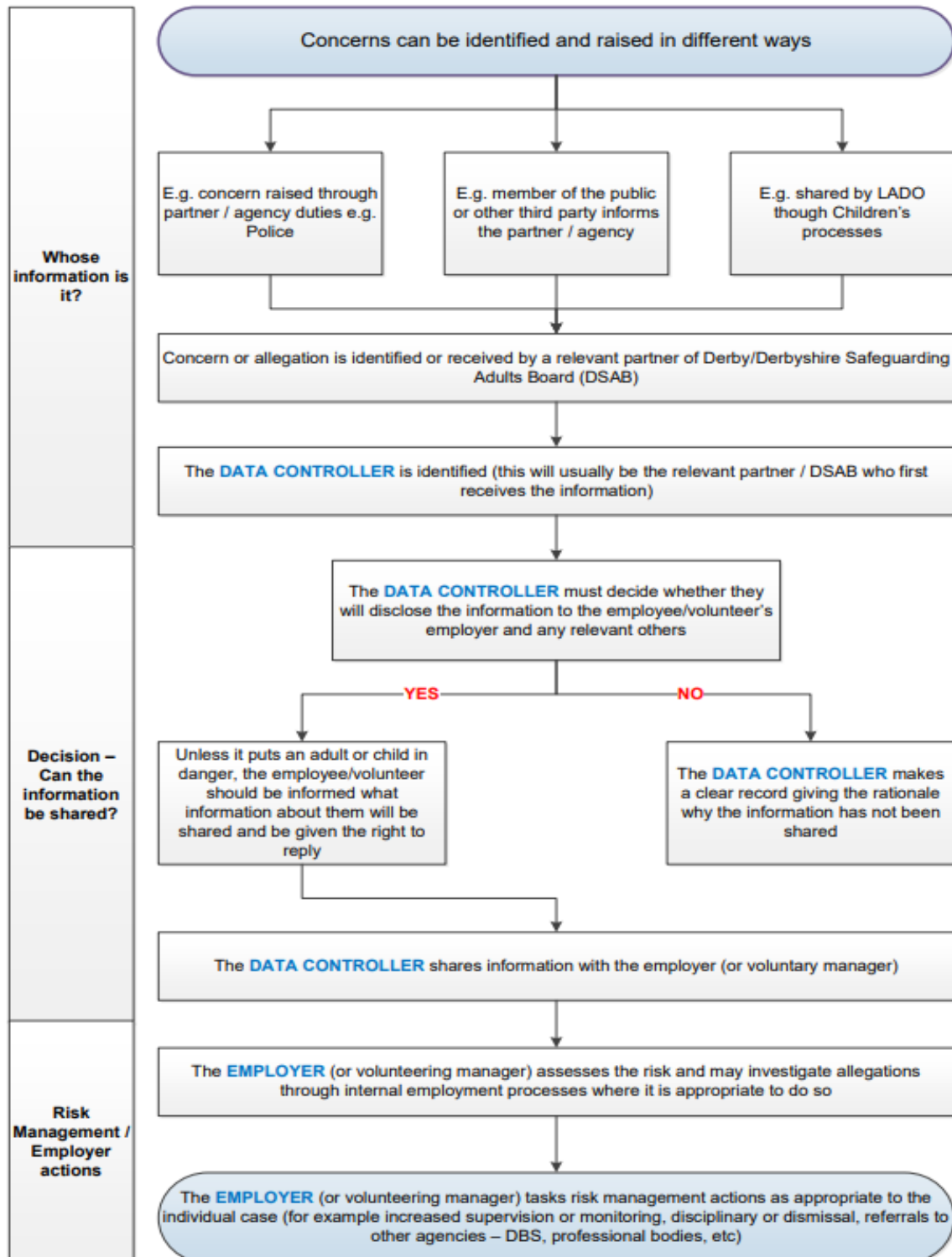
Article 5 of the UK GDPR lists the data protection principles described above.

To determine whether you are a data controller you need to ascertain which organisation decides:

- to collect the personal data in the first place and the legal basis (contained in underlying legislation and other lawful purposes) for doing so,
- which items of personal data to collect, i.e. the content of the data,
- the purpose or purposes the data are to be used for,
- which individuals to collect data about,
- whether to disclose the data, and if so, who to,
- whether subject access and other individuals' rights apply i.e. the application of exemptions and
- how long to retain the data or whether to make non-routine amendments to the data

These are all decisions that can only be taken by the data controller as part of its overall control of the data processing operation.

Appendix 2: Flowchart for Managing Concerns and Allegations about People who work with Adults who have Care and Support Needs



Appendix 3: The PiPoT Process Guidance

1. Safeguarding Adult Board partner agency decision making process

Sufficient information should be gathered by the Data Controller to make a decision on whether further action is required under the PiPoT process.

There is a template referral form available at appendix 5, which can be used by agencies as required

Minimum information to take a referral should include:

- name, address and contact details for the subject of referral,
- confirmation that the subject of the referral is aware of the referral to the PiPoT process
- where the subject of the referral works or volunteers,
- specific reason why the referrer feels the PiPoT process is required, specifically risks and reason for concern

In circumstances where sufficient information as detailed above has not been provided by the referrer consideration should be given to whether this enables a decision to be made about whether this meets the criteria for PiPoT. In these circumstances the referrer can be asked to provide further information, as appropriate.

Following discussion with the person in the organisation identified as the lead for PiPoT, the case should be allocated to an appropriate person to gather information. Advice and guidance should be provided through usual line management routes; and the lead Safeguarding officers Special consideration should be given to whom the case is allocated if the referral is about a member of staff working for the Data Controller to ensure that there is no conflict of interest. It would not be appropriate for a case to be allocated to someone in the same team or for the direct line manager to be involved in giving advice. The line manager(s) should not be made aware of the

referral unless / until it has been agreed that the employer should be advised of the potential risk.

Usual practice should be to involve the referred person (PiPoT) in this process. Only where discussion with the referred person (PiPoT) may be considered harmful to them or others should this not take place and the decision not to involve the person requires management authorisation. In most cases, the referred person (PiPoT) should be made aware from the outset that a referral has been received and their involvement and engagement in the process sought. Reassurance should be given that whilst the Data Controller will gather information, no disclosure will be made to the employer without the referred person (PiPoT) being made aware. The exception to this is where the alleged concern indicates that the risk is so high that there is sufficient justification to contact the employer / voluntary organisation without making prior contact with the referred person (PiPoT). In all such instances, there needs to be a discussion with a manager in advance of the contact.

The allegation should be recorded, how and where this is recorded should be agreed locally. The referred person (PiPoT) should be made aware that information will be held on the Data Controller's database.

There will be occasions when the allegation spans across both Adult's (PiPoT) and Children's (LADO) processes. In such circumstances, it should be agreed which process will take the lead, with a commitment to appropriate and proportionate information sharing. There is an option to escalate this decision to the LADO / Lead Officer, if required.

2. Managing the allegation

Following the fact finding and information gathering process, a management decision needs to be taken in terms of whether, and what, to disclose to the person's employer / voluntary organisation. In most cases, the decision will be made by the responsible manager, but with the option to seek advice from one of the safeguarding lead officers if the situation is especially complex. Legal opinion should also be sought, as required, on a case-by-case basis.

The rationale for decision making needs to be clearly recorded by the Data Controller for assurance and audit purposes.

If it is decided that the employer needs to be informed, an appropriate Manager within the employing organisation should be contacted. Initial contact can be verbal but should be followed up with a written letter using the template at Appendix 4.

The person referred (PiPoT) should be kept updated during the process and informed of the outcome by nominated person in the employing organisation. If the decision is taken to inform the employer / voluntary organisation, the information shared should be proportionate and the person (PiPoT) should be advised what information will be shared. Wherever possible, the referred person (PiPoT) should be encouraged to share the information with their employer / voluntary organisation themselves, although this will need to be followed up by the Data Controller to confirm.

3. Employer Responsibilities

Once the employer or voluntary body has been informed, they are responsible for assessing the risks in the context of their service or organisation. Only the employer has the authority to suspend, redeploy or make other changes to the working arrangements. Each organisation will have policies or procedures in place for investigating concerns about staff, such as disciplinary processes and these should be the employer's primary source of guidance.

The employer has a duty to assess and effectively manage the potential risk of harm posed by the staff member to adults with care and support needs, considering the nature and seriousness of the allegation. The Data Controller can advise the employer on the need to undertake a risk assessment and action plan but this is dependent on the cooperation of the employer and is not enforceable.

The employer has a duty of care for their employee and should ensure that appropriate information and advice is provided to them.

4. Conclusion of the process

The PiPoT process concludes either-

once a decision has been taken not to disclose on the basis that the criteria is not met

or

following the disclosure to the employer a response has been received to acknowledge the receipt of the referral and agreement to follow up.

If the original referrer has concerns about how the employer has responded to the referral, and they are not able to resolve these with the employer, the Data Controller should escalate to the relevant SAB if they believe adults remain at risk.

Appendix 4: PiPoT Letter Template

Dear XXXX

I am writing because I have become aware of concerns about a member of your staff/volunteer for your organisation which I feel meet the criteria for the Person in a Position of Trust Policy. This policy 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, and the issue does not meet safeguarding adult criteria.

I am therefore making you aware to enable you to undertake your own investigations and take any steps required to manage any risks to adults with care and support needs, in accordance with the Derby and Derbyshire Policy for Managing Concerns for People in Positions of Trust (PiPoT) working with adults with Care and Support Needs.

The information I have received is as follows:

Insert here details of the Person, Position of Trust and details of the concerns

The Person in a Position of Trust is/is not aware of the concerns, and that this information is being shared.. (If the person is not aware please detail the reasons why it was not appropriate to discuss the referral with them-this would usually only be due to risks to others or specific risk to the person's own welfare).

Please could you confirm receipt of this letter

If you would like to discuss this letter, please don't hesitate to contact me.

Appendix 5: PIPOT referral form Template

Derby & Derbyshire Safeguarding Adults Boards

Managing allegations against People in Positions of Trust (PIPOT)

Referrer details:

Date of referral:	Click here to enter text
Name of person completing the referral:	Click here to enter text
Referrer position/role:	Click here to enter text
Referrer organisation/service:	Click here to enter text
Referrer contact details: <ul style="list-style-type: none">• Telephone number• Email address	Click here to enter text

Details of the person of concern:

Name:	Click here to enter text
Home Address:	Click here to enter text
Date of Birth:	Click here to enter text
Occupation / job title / role:	Click here to enter text
Details of where the person works/volunteers: <ul style="list-style-type: none">• Name• Address of service	Click here to enter text
Confirmation that the person is aware of the referral to PiPoT process (if they are not aware please confirm why):	Yes / No Comment: Click here to enter text
Contact Details of the Employer / Manager: <ul style="list-style-type: none">• Name• Email address• Telephone number	Click here to enter text

Reason why the referrer feels the PIPOT criteria is met specifically risks to adults at risk and reason for concern: (Please note any concerns about children should be referred to the Local Authority Designated Officer (LADO))	Click here to enter text
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Please note this information should be gathered before contacting/discussing the referral with the relevant PIPOT leads.

Appendix 6: Contact email addresses for PIPOT referrals to DSAB partner agencies

Agency	Contact email address/phone number for PIPOT referrals	Named agency lead for PIPOT
Chesterfield Royal Hospital NHS Foundation Trust	zoe.rodger-fox@nhs.net	Zoe Rodger-Fox – Head of Safeguarding and Complex Needs
Derby and Derbyshire Integrated Care Board	BillNicol@nhs.net	Bill Nicol – Assistant Director, Safeguarding Adults
Derby City Council	adultsMASH@derby.gov.uk 01332 642855	Emily Freeman – Head of Service, Rebecca Smith, Team Manager
Derbyshire Community Health Services	DCHST.SafeguardingService@nhs.net	
Derbyshire County Council	ASCH.SafeguardingQATeam@derbyshire.gov.uk	Lynne Hyland – Group Manager, Jane Bates, Service Manager
Derbyshire Fire and Rescue Service	RRM@Derbys-fire.gov.uk 07919110675	Kay Simcox – Risk Reduction Manager
Derbyshire Healthcare NHS Foundation Trust	dmh-tr.safeguardingchildrenunit@nhs.net 01332 623700 ext 31537	DHCFT Safeguarding Team
Derbyshire Police	SCHadultenquiries@derbyshire.gov.uk	Safeguarding Coordination Hub
DHU Healthcare	dhu.safeguarding@nhs.net 03001000404	Julie Tomlinson or Lesley Harris In their absence a member of the DHU Safeguarding team will assist.
Diocese of Derby	safeguarding@derby.anglican.org	Lisa Marriot

	01332 388678	
East Midlands Ambulance Service	ecasnt.emassafeguardingmanagementteam@nhs.net	Charlotte Salt
Healthwatch Derbyshire	Helen@healthwatchderbyshire.co.uk	Helen Henderson – Chief Executive
HMP & YOI Foston Hall	justin.stone@justice.gov.uk 01283 584306	Justin Stone – Deputy Governor
Probation PDU	MidlandsNPS.Derbyshire.ManagementHub@justice.gov.uk	Bob Bearne – Head of PDU Robert Salmon – Deputy Head of PDU