

# **Darlington Safeguarding Partnership**

Protecting Children and Adults

## **Managing Allegations Against ‘People in a Position of Trust’ Working with Adults who have Care and Support Needs**

**March 2017**

## Version Control

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## 1. Introduction

- 1.1 The aim of this document is to Safeguard Adults at Risk and to promote the safety and wellbeing of adults with care and support needs, children and young people.
- 1.2 [The Care Act 2014 \(Part 1 Care and Support Statutory Guidance\)](#) [external link] outlines the requirement for Darlington Safeguarding Partnership to have clear policies and procedures in place to deal with the management of allegations against 'people in a position of trust' who may pose a risk to adults with care and support needs.
- 1.3 S. 3.2 Care Act 2014 Part 1 Care and Support defines Care and Support as:
  - a) Provision to meet adults' needs for care and support
  - b) Provision to meet carers' needs for care and support
  - c) Provision of services, facilities or resources or the taking of other steps under S 2
- 1.4 If an employee, volunteer or student (paid or unpaid) is alleged to have abused an adult with care and support needs as defined by The Care Act 2014 or it has been identified that they may pose a risk of abuse to an adult with care and support needs, it is essential that the concerns are appropriately reported and responded to in accordance with [Darlington Safeguarding Partnership Multi Agency Safeguarding Adults Procedures](#).
- 1.5 A 'person in a position of trust' refers to any individual who works with Adults with care and support needs in either a paid, voluntary or student capacity. Employees, volunteers or students (paid or unpaid) are referred to hereafter as a 'person in positions of trust'. The term 'employer' refers to organisations providing care and support that have a working relationship with the 'person in a position of trust'. This includes those that use volunteers and it also includes student bodies. It will also include adults with care and support needs who employ personal assistants.
- 1.6 Darlington Safeguarding Partnership is required to establish a framework for dealing with allegations against people working with adults with care and support needs and establish a process for the notification of and response to such allegations or concerns. This guidance sets out how such allegations and concerns should be reported and the framework for responding to concerns of this nature.

## 2. Raising a concern about a 'person in a position of trust'

- 2.1 Safeguarding is everyone's responsibility. If there are concerns that a 'person in a position of trust' has or may have abused an adult with care and support needs or may pose a risk to these adults the concerns must be addressed in accordance with Darlington Safeguarding Partnerships Multi-Agency Safeguarding Adults Policy and Procedures. Examples of a 'person in a position of trust' are Health Professionals such as Doctors, Dentists, Nurses, Physiotherapists, Occupational Therapists, Health Care Assistants, Paramedics, Ambulance Staff and Patient Transport. Other examples Social Workers, Social Work Assistants, Residential Care Assistants and

Managers, Domiciliary Care Assistants, Personal Assistants, Police Officers, Voluntary Workers and Students involved in vocational training with adults at risk. It also includes those with Power of Attorney or an Appointeeship.

- 2.2 These concerns could emerge from the employee's home and personal life, as well as within their work.
- 2.3 Where concerns are raised about someone who works with adults with care and support needs it will be necessary for the employer (or student body or voluntary organisation) to assess any potential risk to adults with care and support needs who use their services and if necessary take action to safeguard those adults.
- 2.4 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 harm 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
- 2.5 The Local Authority's relevant partners, as set out in S 6(7) of the Care Act 2014 and those providing universal care and support services should have clear policies in line with those from the Darlington Safeguarding Partnership for dealing with allegations against people who work in either a paid or unpaid capacity with adults with care and support needs. A distinction should be made between an allegation, a concern about the quality of care or practice and a complaint.
- 2.6 Whilst the focus of Safeguarding Adults work is to Safeguard one or more identified adults with care and support needs there may be occasions when incidents are reported which do not involve a named adult being at risk but there is the potential for a person in a position of trust to pose a risk to adults with care and support needs either from their activities in their workplace or in their private life.
- 2.7 Allegations involving adults with care and support needs must not be dealt with in isolation. Any corresponding action necessary to address the welfare of adults with care and support needs or children or young people should be addressed without delay and in a co-ordinated manner to prevent the need for further safeguarding in the future. (See Paragraph 6 regarding children and young people).
- 2.8 Where there is a concern that a person working with Adults may fulfil the criteria outlined in paragraph 2.4 and 2.6 this should be reported to the First Point of Contact Team (see para 8 for contact details) at Darlington Borough Council within **one working day**. The information will then be passed to the Safeguarding Adult Manager in Adult Social Care. If the situation requires immediate attention outside of office hours the matter can be reported to the Emergency Duty Team (EDT) or in the case of a criminal offence it can be reported to the Police.

### 3. Local Authority Responsibilities

3.1 The Local Authority has a distinct role relating to the management of allegations involving people in positions of trust and is responsible for the oversight, management and recording of cases involving persons in a position of trust.

3.2 Where a Local Authority has reasonable cause to suspect that an adult (aged 18 years or over) residing in that area (whether or not ordinarily resident there);

- has needs for care and support (whether or not the Local Authority is meeting any of those needs),
- is experiencing, or is at risk of, abuse or neglect, and
- as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.

The Local Authority must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult's case and, if so, what and by whom.

3.3 The Safeguarding Adults Manager is required to make enquiries (or cause them to be made) with partner agencies to;

- understand the nature of the concerns
- share information
- assess the risk.

3.4 When sharing information about adults, children and young people at risk between agencies it should only be shared in accordance with the [Data Protection Act 2018](#), and [General Data Protection Regulations \(GDPR\)](#) and the [Darlington Safeguarding Partnership Multi Agency Information Sharing Protocol](#):

- Where necessary and relevant (not simply all of the information held)
- With 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

3.5 Assessment of risk should include the risk to adults with care and support needs within the wider community and also potential risks to children.

3.6 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 in respect of information sharing and risk assessment should always be recorded.

3.7 When the risk is posed by an individual working in a 'position of trust' the Safeguarding Adults Manager within the Local Authority is required to review the findings of those enquiries, decide about disclosure to an employer or charitable organisation or student body and agree the actions to be taken and by whom.

- 3.8 Where an investigation is being undertaken within the Darlington Safeguarding Adults Procedures as a Section 42 enquiry this will be undertaken within the framework of the investigation process and the management of risk posed by a 'person in a position of trust' will be discussed and recorded within the Strategy meeting process.
- 3.9 Where an investigation is not being undertaken within the Safeguarding Adults procedures, the Safeguarding Adults Manager will convene a Managing Concerns Meeting within five working days to assess and determine the actions required to manage the risk posed by a 'person in a position of trust'. Such meetings are likely to arise in circumstances as outlined in paragraph 2.6 where the concerns do not involve a named adult at risk but there is nevertheless the potential for a person in a position of trust to pose a risk to adults with care and support needs either from their activities in their workplace or in their private life. The meeting will need to include the relevant agencies as appropriate to the concern, for example the Care Quality Commission, Police, and County Durham and Darlington Foundation Trust (CDDFT). The discussion should be recorded in Managing Concerns Meeting minutes and actions for each agency identified.

It should be noted that depending on the circumstances and the nature of the concern it may not be necessary to convene a Managing Allegations Meeting and it may be appropriate to discuss the matter with the employer via a telephone conversation or by e mail. This is likely to apply to cases where there is not a named adult at risk, the concern is of a less serious nature, there is no additional information to be shared and there is no allegation of a criminal offence and therefore no requirement for the police to be informed meaning that the matter can be addressed between the Safeguarding Adult Manager and the employer without the involvement of other agencies. This decision will be at the discretion of the Safeguarding Adult Manager and the details of the concern, the discussions and the outcome must be recorded in the database.

- 3.10 In situations where there are concerns relating to the behaviour of a 'person in a position of trust' and the concern has been raised by someone other than the employer the employer must be informed. The Safeguarding Adults Team Manager has responsibility for ensuring the employer is informed. Careful consideration should be given to what information should be shared with employers as outlined in paragraph 3.4 and 3.6. 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 in respect of information sharing and risk assessment should always be recorded. The employer will usually be invited to the Strategy Meeting or Managing Concerns Meeting but in cases where criminal offences are suspected and there is police involvement advice will be taken from the Detective Sergeant as to who should attend the meeting.
- 3.11 The Safeguarding Adults Team Manager has the responsibility to ensure that the employer is advised regarding the need for the suspension/removal to alternative duty of the employee if this is necessary to ensure the safety of adults with care and support needs and depending on the outcome of the enquiry the requirement to

notify the Disclosure and Barring Service (DBS) which is always the responsibility of the employer. It is an offence to fail to make a referral to DBS without good reason (see Paragraph 5).

- 3.12 Unless it puts an adult or child or young person at risk or would compromise a police investigation the person in a position of trust should be informed that the allegation against them will be shared with the employer. In terms of the risk each case must be assessed individually and where a criminal enquiry is being conducted or is likely to be conducted Police should be consulted prior to alerting the person in a position of trust or the employee to the allegation/concern.
- 3.13 The Safeguarding Adults Team Manager should liaise with police and other agencies to monitor the progress of cases and ensure that enquiries are dealt with expeditiously and are consistent with a thorough and fair process. The Safeguarding Adults Team Manager should ensure that written records are maintained and updated throughout the enquiry.
- 3.14 The Safeguarding Adults Manager is required to provide advice to employers and voluntary organisations when guidance in dealing with allegations against or concerns about employees who work with adults with care and support needs is requested and should be able to provide advice on appropriate information sharing and the duty to cooperate under S 6 of the Care Act 2014.

#### **4. Responsibilities of the employer/voluntary organisation /student bodies**

- 4.1 This paragraph refers to employers, voluntary workers and student bodies.
- 4.2. Employers/Voluntary Organisations and Student bodies should have clear procedures in place setting out the process including timescales for investigation and what advice and support will be available for individuals against whom allegations have been made. HR should be involved in this process. Employees should immediately report concerns about abuse to a senior manager within the organisation.
- 4.3 When such concerns are raised it is necessary for the employer (or voluntary organisation/student body) to assess any potential risk to adults with care and support needs and take action to safeguard those at risk.
- 4.4 Where an employer has concerns about an employee who may pose a risk to adults with care and support needs the relevant information must be shared with the Safeguarding Adult Manager within the Local Authority within one working day. If the referral meets the Safeguarding Adults criteria and there is a named adult at risk, then the employer should follow the usual safeguarding adults' referral route and submit a completed concern form to the secure e-mail address. If the concern does not refer to a named adult at risk but to more general concerns about the conduct of an employee or issues within their private life the referral should be made to the First Point of Contact Team at Darlington Borough Council on 01325 406111. Outside of office hours it may also be necessary to inform the EDT if immediate action is



required to protect adults with care and support needs who may be at risk of harm. If a criminal offence is suspected, then the police should also be informed so that consideration can be given to the preservation of evidence.

- 4.5 Following a Strategy meeting or Managing Concerns Meeting and depending on the outcome and the risk assessment the employer may be required to suspend an employee if the suspension is not already in place. In respect of suspension the employer should consult with HR and follow the appropriate policy.
- 4.6 At the point of suspension the employer should not disclose anything other than the fact that an allegation is being investigated. The employee should not be interviewed though a written record should be made of any spontaneous comments made by the employee.
- 4.7 If an employee is suspended the employer has a duty of care and procedures should be in place to ensure that the suspended employee has welfare support and a named contact person.
- 4.8 If a Safeguarding Adults Investigation is conducted in accordance with Darlington Safeguarding Partnership Multi-Agency Safeguarding Adults Procedures or a single agency investigation by police is conducted then this will take precedence over an internal investigation. If the outcome of the Strategy meeting/management concerns meeting was that the matter should be dealt with by means of an internal discipline investigation, then the employer has a duty to conduct the enquiry expeditiously in accordance with the organisation's HR policy and procedures and to inform the Safeguarding Adults Manager of the outcome.
- 4.9 If the person who is alleged to have caused the abuse is a member of a recognised Professional group the employer will act under the relevant code of conduct for the profession as well as taking action under the organisations policy and procedures.
- 4.10 The employer has statutory duties in relation to informing the Disclosure and Barring Service of the dismissal of an employee because of Safeguarding concerns (see paragraph 5).

## **5. Employers responsibilities to refer to the Disclosure and Barring Service (DBS)**

- 5.1 If an employee (or volunteer worker or student) is removed by being either dismissed or redeployed to a non-regulated activity from their role providing regulated activity following a safeguarding incident, or a person leaves their role (resignation or retirement) to avoid a disciplinary hearing following a safeguarding incident and the employer/volunteer organisation/student body is of the opinion that the employee would otherwise have been dismissed based on the information they hold, the regulated activity provider has a legal duty to refer to the Disclosure and Barring Service (DBS). If an agency or personnel supplier has provided the employee then the legal duty sits with that agency.

In circumstances where these actions are not undertaken by the employer then the Local Authority can undertake the disclosure. It is an offence to fail to make a referral without good reason.

The DBS referral form and further guidance can be found at [www.gov.uk/government/collections/dbs-referrals-guidance--2](http://www.gov.uk/government/collections/dbs-referrals-guidance--2) [external link]

## 6. What to do if there are concerns about a child

- 6.1 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 Designated Officer (formerly the LADO) in accordance with the Darlington Safeguarding Partnership Multi-Agency Safeguarding Children Policy and Procedures.

## 7. Legal framework and linked guidance

- [Care Act 2014: Care and Support Statutory Guidance](#)
- [Working Together to Safeguard Children 2018](#)
- [Data Protection Act 2018](#)
- [Darlington Safeguarding Partnership Multi Agency Information Sharing Protocol](#)
- [Disclosure and Barring Service \(DBS\) guidance](#) [link]
- [DSP Multi – Agency Safeguarding Adults Policy and Procedures](#)
- [DSP Multi-Agency Safeguarding Children Policy and Procedures](#)

## 8. Contact

First Point of Contact Team Darlington Borough Council: **01325 406111**

Emergency Duty Team (EDT): **01642 524552**

Durham Constabulary **101**, or in the case of an emergency **999**

For further information see [darlingtonsafeguardingpartnership.co.uk](http://darlingtonsafeguardingpartnership.co.uk) [link]