

## Safeguarding - Managing Allegations against People in a Position of Trust Policy (PiPoT)

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<b>Approved by:</b>	Name: JNCC	18 <sup>th</sup> May 2023
<b>Date of first approval:</b>	17 <sup>th</sup> November 2016	
<b>Date of review:</b>	11 <sup>th</sup> January 2023	
<b>Revision Due:</b>	2 <sup>nd</sup> May 2026	
<b>Target Organisation(s)</b>	Worcestershire Acute Hospitals NHS Trust	
<b>Target Departments</b>	Trustwide	
<b>Target staff categories</b>	This Policy applies to all Worcestershire Acute Hospitals NHS Trust (WAHT) staff, and anyone working within or on behalf of the Trust in a paid, contractual or voluntary capacity.	

### Policy Overview:

The purpose of this Policy is to provide a framework for managing allegations made about colleagues whether working in a paid, contractual or voluntary capacity that might indicate that a child, young person or adult is believed to have suffered or is likely to suffer, significant harm or, where a colleague is behaving in a way that suggests they are unsuitable to work with such groups of people.

This framework ensures appropriate actions are taken to manage such allegations, regardless of whether they are made in connection with a colleagues' duties with WAHT or if they fall outside of this i.e. in their private life or any other capacity. This Policy ensures all colleagues are dealt with fairly and consistently in a way that provides effective protection for the adult, child or young person and at the same time supports the individual against whom the allegation has been made.

### Key Amendments:

Date	Amendment	Approval
15 <sup>th</sup> October 2019	Full review to include Worcestershire Safeguarding Adult Board (WSAB) Protocol for responding to concerns about a person in a position of trust working with adults (PiPoT) and Working Together to Safeguard Children revised April 2018	Safeguarding Committee
19 <sup>th</sup> March 2020	Approved with no further amendments.	JNCC
11 <sup>th</sup> January 2023	Review and update of current process and language throughout document. Inclusion of GDPR requirements. Linked to 4ward Improvement Strategy. Inclusion of Disclosure & Barring Service. Inclusion of lower level concerns.	Integrated Safeguarding Committee 28.03.2023 PWG 02.05.2023 JNCC

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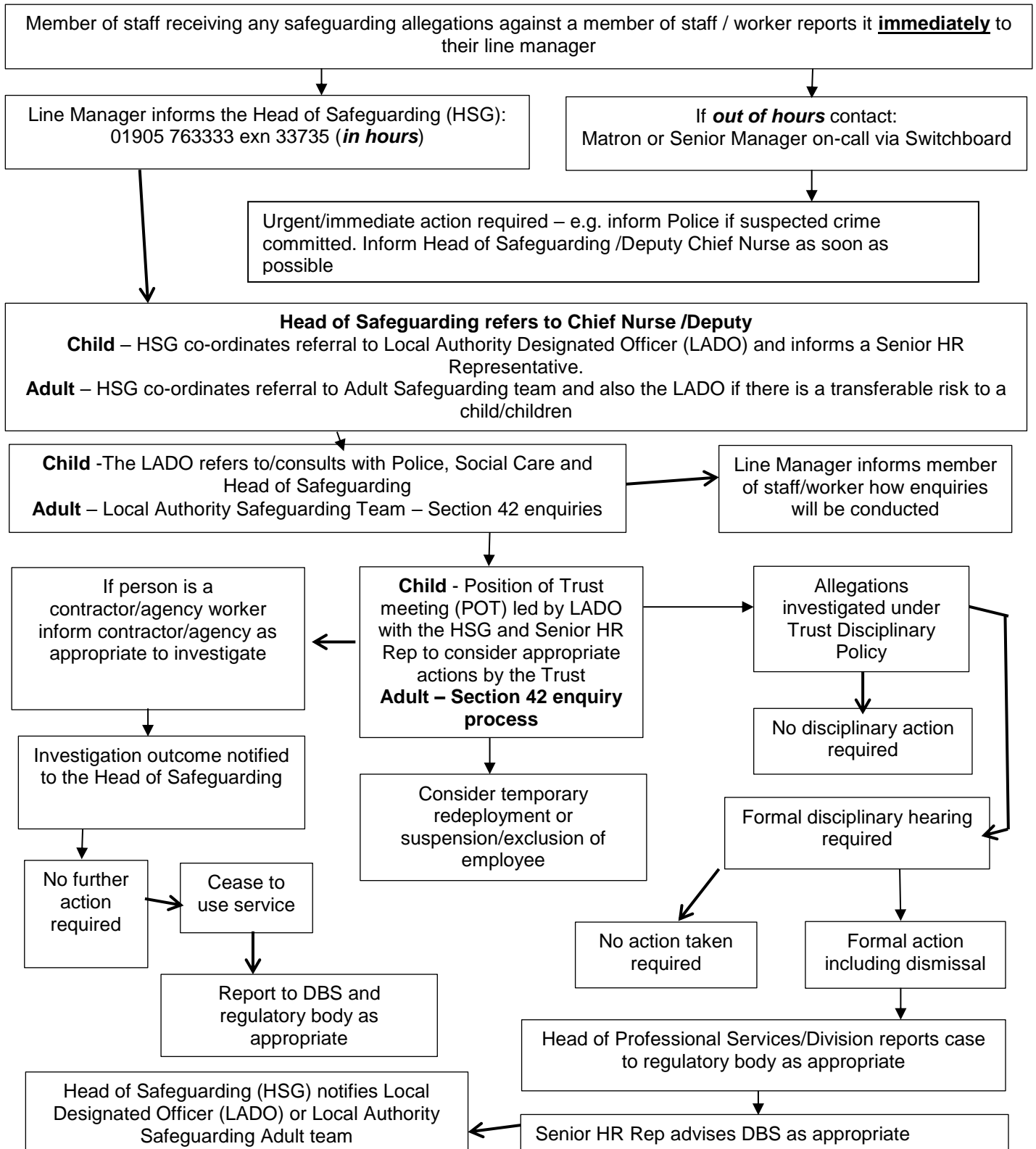
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## Quick Reference Guide

### PROCESS FOR ALLEGATIONS AGAINST A PERSON IN A POSITION OF TRUST



## 1. Introduction

Every NHS organisation and each individual working in the NHS has a responsibility to ensure that the principles and duties of safeguarding children, young people and adults are consistently applied, with the wellbeing of those children, young people and adults at the heart of the services we provide. This is in keeping with our 4ward Improvement System enabling us to fulfil our purpose of Putting Patients First, and ensuring we provide high-quality, safe and effective care, with the best possible experiences for both our patients and staff.

For the most part, adults working with children and young people act professionally and aim to provide a safe environment for the children and young people in their care, however, it must be recognised that there are adults who will deliberately seek out, create or exploit opportunities to abuse children.

Worcestershire Acute Hospitals NHS Trust (WAHT) has a statutory duty under the Children Act (1989/2004) and the Care Act (2014) to ensure they make arrangements to safeguard and promote the welfare of children and young people, and to protect adults with care and support needs who are at risk of experiencing abuse and / or neglect.

The Policy documents 'Working Together to Safeguard Children and Young People' Gov.uk (2015, revised 2018) and the 'Care and Support Statutory Guidance' Gov.uk (2016) set out expectations that all statutory organisations will have a procedure for managing allegations against staff.

## 2. Scope

WAHT is committed to the prevention of abuse of children, young people and adults and ensuring robust procedures are in place for dealing with identified incidents of suspected or actual abuse.

This Policy should be read alongside WAHT Safeguarding Children and Safeguarding Adults Policies and the Regional Child Protection Procedures for the West Midlands (Section 1.14), and Adult Safeguarding: Multi-agency policy & procedures for the protection of adults with care & support needs in the West Midlands.

### Key information for staff

Regional Child Protection Procedures for the West Midlands (Section 1.14)

<https://westmidlands.procedures.org.uk/ykpzy/statutory-child-protection-procedures/allegations-against-staff-or-volunteers/>

Adult Safeguarding: Multi-agency policy & procedures for the protection of adults with care & support needs in the West Midlands:

<https://www.safeguardingworcestershire.org.uk/wp-content/uploads/2020/06/West-Mids-Policy-and-Procedures-Nov-2109.pdf>

WAHT Safeguarding Adults & Children  
[Safeguarding Vulnerable Adults \(worcsacute.nhs.uk\)](https://www.worcsacute.nhs.uk/safeguarding-vulnerable-adults)

All allegations made against a colleague must be taken seriously. Allegations against colleagues who work with children, young people or adults at risk, can denote a vast range of circumstances. Examples may include, but are not limited to:

- Commitment of a criminal offence against or related to, an adult, young person or child
- Behaved in a way that has harmed or has the potential to harm a child, young person or adult, or may have harmed a child, young person or adult
- Behaviours towards children, young people or adults at risk, that indicates they are unsuitable to work with children, young people or adults
- Where an allegation or concern arises about a colleague, from their private life such as perpetration of domestic violence or where inadequate steps have been taken to protect vulnerable individuals from the impact of violence or abuse
- A failure to work collaboratively with social care agencies when a concern about the care of a child, young person or adult at risk for whom they have caring responsibilities is being investigated
- Where an allegation of abuse is referred by the Local Area Designated Officer (LADO) against someone closely associated with a colleague such as a spouse or partner, member of the family or someone who resides at the same address. This may include allegations that it is no longer appropriate for the colleague to continue to work with children, young people or adults at risk in their current position. The allegations may relate to the colleague's behaviour at work, at home or in another home setting. Full consideration and assessment of the potential and / or actual associated risks will be conducted to in order to establish this.

### 3. Definitions

A "child" is anyone who has not yet reached their 18<sup>th</sup> birthday (Children Act 1989 and 2004)

An "adult" with care and support needs as defined by the Care Act 2014 is defined as:

The adult safeguarding duties under the Care Act 2014 apply to an adult, aged 18 or over, who:

- has needs for care and support (whether or not the local authority is meeting any of those needs) **and**;
- is experiencing, or at risk of, abuse or neglect; **and**
- as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect. (*Care and support is the mixture of practical, financial and emotional support for adults who need extra help to manage their lives and be independent - including older people, people with a disability or long-term illness, people with mental health problems, and carers. Care and support includes assessment of people's needs, provision of services and the allocation of funds to enable a person to purchase their own care and support. It could include care home, home care, personal assistants, day services, or the provision of aids and adaptations*).

### 4. Responsibilities & Duties

#### 4.1 Confidentiality

Every effort should be made to maintain confidentiality and guard against publicity whilst an allegation is being investigated or considered, apart from keeping the child, young person or adult at risk informed (where this is appropriate and feasible) and / or corresponding with related parties and the colleague against whom the allegation has been made.

Information should be restricted to those who have a need to know (as defined by the Position of Trust meeting (PoT) in order to protect those involved and the integrity of any investigation process. **The LADO and/or Police will advise as to the level of detail to be shared and with whom.**

Any case which may attract potential media interest should be raised with the Chief Nursing Officer or deputy who will liaise with the Trust Communications team in accordance with the Trust Media Policy.

## 4.2 Information Sharing

### 4.2.1 The General Data Protection Regulation (GDPR) and Data Protection Act 2018

The General Data Protection Regulation (GDPR) and the Data Protection Act 2018 introduce new elements to the data protection regime, superseding the Data Protection Act 1998. Practitioners must have due regard to the relevant data protection principles which allow them to share personal information. The GDPR and Data Protection Act 2018 place greater significance on organisations being transparent and accountable in relation to their use of data. All organisations handling personal data need to have comprehensive and proportionate arrangements for collecting, storing, and sharing information.

The GDPR and Data Protection Act 2018 do not prevent, or limit, the sharing of information for the purposes of keeping children and young people safe.

To effectively share information:

- all practitioners should be confident of the processing conditions, which allow them to store, and share, the information that they need to carry out their safeguarding role. Information which is relevant to safeguarding will often be data which is considered 'special category personal data' meaning it is sensitive and personal
- where practitioners need to share special category personal data, they should be aware that the Data Protection Act 2018 includes 'safeguarding of children and individuals at risk' as a condition that allows practitioners to share information without consent
- information can be shared legally without consent, if a practitioner is unable to, cannot be reasonably expected to gain consent from the individual, or if to gain consent could place a child at risk.
- relevant personal information can be shared lawfully if it is to keep a child or individual at risk safe from neglect or physical, emotional or mental harm, or if it is protecting their physical, mental, or emotional well-being.

#### Key information for staff

Information sharing Advice for practitioners providing safeguarding services to children, young people, parents and carers (HM Government, 2018)

[Information sharing advice practitioners safeguarding services.pdf](#)

WAHT Cadicott Guardian /Information Governance support:

[Information Governance \(worcsacute.nhs.uk\)](http://worcsacute.nhs.uk)

## 4.2 Duty to report

All WAHT staff and workers have a personal responsibility to report suspicions or allegations pertaining to a colleague whether working directly or indirectly with them. All parties involved should maintain an open and enquiring mind.

The types and patterns and different circumstances of significant harm and abuse should be considered within the categories identified for children in the Children Act 1989 / 2004 and for Adults at risk within the Care Act 2014.

### Children:

- Neglect
- Sexual
- Physical
- Emotional

### Adults:

- Discriminatory
- Psychological
- Financial or material
- Organisational
- Neglect and acts of omission
- Physical
- Sexual
- Domestic
- Modern slavery
- Self-neglect

### Source of Allegation

There are a number of sources from which a complaint or allegation might arise, including those from:

- A Child or young person
- An Adult
- A Parent/carer
- A Member of the public (including a friend or relative)
- A Colleague
- A Patient
- Local Authority Designated Officer (LADO)
- Agencies (e.g. Police, Social Care or Adult Social Care)

There may be up to three components in the consideration of an allegation:

- A Police investigation of a possible criminal offence.
- Enquiries and assessment by children's social care or adult social care relating to whether a child, young person or adult at risk is in need of protection or services.
- Consideration by an employer of disciplinary action or other due process in respect of the individual (including suspension)



## Escalation Process

In the event you feel your concerns are not being acted upon or taken seriously, please contact either the Head of Safeguarding, Chief Nursing Officer /Deputy, or Freedom to Speak Up Guardian.

## Specific responsibilities:

### 4.3 Employees

Anyone employed by WAHT or providing services (whether in a paid, contractual or voluntary capacity) to work with children, young people or adults has a responsibility to be aware of possible abuse and to take appropriate action whenever there is a concern that abuse may have taken place or may have the potential to, without preventative action.

**Failure to report or to delay reporting an allegation or concern in line with this Policy could result in formal disciplinary proceedings being undertaken.**

Mandatory safeguarding training should be completed by the employee in accordance with Trust mandatory training requirements.

It is the responsibility of the employee to inform their Line Manager if they are being investigated in relation to concerns relating to children, young people or adults at risk outside of the workplace. Likewise, the employee has a duty to inform their manager if any person they are living with becomes subject to child protection or adult protection matters. The Line Manager must report this to the Head of Safeguarding as an immediate action.

### 4.4 Line Manager

The employee's Line Manager will work in collaboration with the Head of Safeguarding, the designated Senior HR representative and the staff member. The Line Manager undertakes the following responsibilities:

- The allegation is reported immediately to The Head of Safeguarding.
- Attendance at all PoT Meetings as requested by the LADO.
- Adherence, consideration and implementation of the advice and expertise bestowed by the LADO and Head of Safeguarding.
- Timely liaison with the Senior HR Representative in all aspects of the staff members' employment with particular pertinence to the staff member's roles / responsibilities, restrictions to practice, suspension, exclusion and / or disciplinary action or other due process that may be required as per PoT Meeting.
- Escalation to the relevant Head of Professional Service / Division to refer to employee's professional body.
- Timely support is given to the staff member involved and signpost to other supportive mechanisms, including Occupational Health, wellbeing services, Trade Union, Regulatory Body and corresponding Trust Policies and Guidance.
- Initial fact finding / information gathering

### 4.5 Head of the Professional Service / Division.

This includes but is not restricted to, Divisional Director of Nursing, Deputy Director of Nursing, Medical Director or Divisional Medical Director. The Head of the Professional Service/Division will undertake the following responsibilities:



- Oversight, delegation and assurance that Line Manager adheres to their roles and responsibilities
- Notification and referral to appropriate professional / regulatory body

## 4.6 Chief Nursing Officer (CNO)

The Trusts CNO has overall Executive responsibility and accountability for the Trust in respect to allegations made against colleagues and Position of Trust Meetings (PoT). The CNO must be informed immediately by the Head of Safeguarding when an allegation is raised. The CNO ensures:

- Compliance with this Policy and corresponding legislation and guidance.
- The Trust has effective systems to review cases and identify changes which would improve procedures and practice.
- The Trust has effective reporting and recording arrangements.

## 4.7 Head of Safeguarding

The Head of Safeguarding will provide safeguarding expertise and guidance throughout the allegation process, ensuring that the procedure is properly implemented. All allegations and concerns must be immediately reported to The Head of Safeguarding who will then liaise and refer cases to the LADO and CNO. Other responsibilities include:

- Partake in PoT Meetings as deemed necessary by the LADO.
- Liaise with the LADO in respect to allegations.
- Liaises with Senior HR Representative and Line Manager in respect to the colleague concerned, including suspension, exclusion, disciplinary action, or other due process and risk assessments.
- Receives formal confirmation from the relevant Head of Professional service / Division that a referral to the employee's regulatory body has been conducted.

## 4.8 Designated Senior HR Representative

A designated Senior HR representative will work in collaboration with the Head of Safeguarding and the staff member's Line Manager to undertake the following responsibilities:

- Advise and support on all aspects of employment law pertaining to all parties of staff involved in the allegation and its corresponding investigation with particular pertinence to the staff member's roles / responsibilities, restrictions to practice, exclusion, suspension and / or disciplinary action or other due process that may be required as per PoT Meeting.
- Attendance at all PoT Meetings in an advisory capacity.
- After the investigation is concluded and the allegations substantiated the LADO should discuss with the Senior HR representative if the case needs to be referred to the Disclosure and Barring Service for consideration of inclusion on the barred lists.

## 4.9 Local Area Designated Officer (LADO)

LADO procedures should be applied when there is an allegation that any person who works with children, in connection with their employment or voluntary activity, has met the below threshold:

- behaved in a way that has harmed a child or may have harmed a child
- possibly committed a criminal offence against or related to a child
- behaved in a way that indicates they may pose a risk to children
- behaved or may have behaved in a way that indicates they may not be suitable to work with children

Every local authority should have a LADO to be involved in the management and oversight of individual cases. In Worcestershire the LADO is located within Children's Social Care (Worcestershire Children First). The LADO should provide advice and guidance to employers and voluntary organisations liaising with the Police and other agencies and monitoring the progress of cases to ensure that they are dealt within agreed timescales, consistent with a thorough and fair process. The LADO will advise if the threshold is met for management of allegation process and facilitating the resulting Position of Trust (PoT) meeting.

The LADO should be informed within **one working day** of all allegations that come to an employer's attention or that are made directly to the Police. The Head of Safeguarding will liaise with the LADO accordingly, in relation to all allegations pertaining to WAHT staff and workers.

## Key information for staff

LADO information /referral process can be found here:

[Are you worried about an adult who works with children? | Are you worried about an adult who works with children? | Worcestershire County Council](#)

## 4.10 Police

The Police must be consulted about any case in which a crime may have been committed.

## 4.11 Record Keeping

The Head of Safeguarding will have responsibility for maintaining and storing the following records:

- The nature of the allegation/concern
- HR / Line Manager involved
- DBS or regulatory body referrals made in relation to the specific case
- LADO / Police details
- Minutes of Position of Trust meetings held

HR in conjunction with the Line Manager / assigned investigator will have responsibility for records relating to

- Who was spoken to as part of the process and what statements/notes were taken and when
- Any records that were seen and reviewed
- What actions were considered and justification for specific decisions, including suspension and any actions taken under the Trusts Disciplinary Procedure
- What alternatives were explored
- Minutes and actions of all meetings that take place

All records should be **held securely** and retained in accordance with The Records Management Code of Practice for Health and Social Care 2021.

Retention period will be until retirement or 10 years if that would be longer.

## Key information for staff

The Records Management Code of Practice for Health and Social Care 2021.

## 5. Policy Detail

### 5.1 Immediate Danger

If anyone is considered to be in immediate danger, then the Police should be contacted via switchboard on 2222 or via 999.

### 5.2 Referral routes

#### 5.2.1 Children & Young People:

Where the concern is in relation to **safeguarding children**, referral will be directed to the LADO.

#### Transferable risk to children:

If the concern is in relation to ***an adult and the nature of the concern may be transferable to a child /children*** then a ***referral will be made to both the LADO and the Local Authority Adult Safeguarding team.***

#### 5.2.2 Adults:

Where the concern is in relation to **safeguarding adults**, a ***referral should be made into the Local Authority Adult Safeguarding team.***

### 5.3 Managing Allegations –Children & Young People

For allegations that relate to staff working with children or young people this procedure has been written in line with the requirements of agencies as per the West Midlands Regional Multi Agency Procedures (Section 1.14).

These procedures should be applied when there is an allegation or concern that any person who works with children has:

- behaved in a way that has harmed a child, or may have harmed a child
- possibly committed a criminal offence against or related to a child
- behaved towards a child or children in a way that indicates they may pose a risk of harm to children
- behaved or may have behaved in a way that indicates they may not be suitable to work with children.

These behaviours should be considered within the context of the definitions of abuse and neglect and should include concerns relating to inappropriate relationships between members of staff and children or young people, for example:

- having a sexual relationship with a child under 18 if in a position of trust in respect of that child, even if consensual
- 'Grooming', i.e. meeting a child under 16 with intent to commit a relevant offence
- other 'grooming' behaviour giving rise to concerns of a broader child protection nature (for example, inappropriate text/e-mail messages or images, gifts, socialising etc.)
- possession of indecent photographs/pseudo-photographs of children

## 5.4 Managing Allegations - Adults

For allegations that relate to colleagues working with adults with care and support needs (hereinafter referred to as the adult) as defined in the Care Act (2014), this procedure has been written in line with the requirements of agencies as per the West Midlands Multi Agency Procedures adopted by the Worcestershire Safeguarding Adult Board (WSAB).

## 5.5 Procedure for reporting /managing allegations: non-directly employed workers

If a safeguarding allegation is made against a worker working within or on behalf of WAHT who is not directly employed by WAHT the allegation must also be shared with their employer or the body that engaged them at the earliest opportunity. The employer has a duty to assess the potential risk and actions required and inform the Local Authority in accordance with the West Midlands Safeguarding Policy & Procedures. The employer also has a duty to consider what support and advice they will make available to their staff or volunteers against whom allegations have been made.

All such allegations should also be reported and escalated to the Head of Safeguarding (or Chief Nurse /deputy) in accordance with the requirements of this Policy.

## 5.6 Historical allegations

Historical allegations should be dealt with in the same way as contemporary concerns. It is important to ascertain if the accused person is currently working with children or adults and to consider whether their current employer should be informed.

## 5.7 Process (refer to Quick Reference Guide at the front of this document)

The Line Manager to whom an allegation is first reported to **should:**

- Make a written record of the information, where possible in the informants own words, including time, date and place of incident, persons present and what was said/done and sign and date the record.

The Line Manager should treat the matter seriously and keep an open mind. **They should not:**

- Instigate an investigation
- Investigate or ask leading questions
- Make assumptions or offer alternative explanations
- Give assurance that the information given will only be shared on a need to know basis.
- Promise confidentiality
- Witnesses should not be interviewed where there may be Police involvement until the Police have indicated that interviews can proceed
- Record the incident on Datix

The Line Manager reports the allegation immediately to the Head of Safeguarding. If out of hours the Line Manager should call the Matron or Senior Manager on call via switchboard. The Matron or Senior Manager on call will then report it to the Head of Safeguarding at the earliest opportunity.

The Head of Safeguarding will report the allegation to the Chief Nursing Officer and report and liaise with the Local Area Designated Officer (LADO). The Head of Safeguarding will also report the allegation to a Senior HR representative.

A Position of Trust (PoT) meeting should take place and this is led by the LADO. The meeting will involve the LADO, The Head of Safeguarding and a Senior Human Resources Representative and any other professionals who are involved in the case as deemed appropriate by the LADO.

The PoT meeting should:

- Consider the allegation and whether any investigation under the Trusts Disciplinary Policy is required or The Conduct, Capability, Ill Health and Appeals Policies and Procedures for Medical & Dental staff.
- Discuss any previous allegations or concerns.
- Decide whether a Police investigation is necessary.
- Plan enquiries if needed, allocate tasks and set timescales.
- Consider what support should be made available to the member of staff and anyone who may be affected.
- Decide on what information can be shared and with whom.
- Identify a lead contact manager within each agency.
- The LADO to agree procedures for reviewing investigations and monitoring progress.
- Inform Senior Management of issues to consider (i.e. media interest or resourcing pressures).
- Consider if a referral to the DBS/other regulatory or professional bodies should be made and by whom.
- Where it is applicable consider the staff members own children/family members and any other adults at risk that they have contact with and whether a referral to Social Services is required.
- If the allegation will affect the colleague who works with children, young people or adults at risk, the PoT meeting should consider the measures needed to be put in place to ensure protection of the child, young person or adults at risk and if the role of the staff or worker has been compromised. The LADO will advise WAHT on any actions required accordingly.
- Agree any future LADO meetings.

The Line Manager will inform the colleague who is subject to the allegation about how enquiries will be conducted as agreed at the PoT meeting.

A review PoT meeting / liaison with LADO should take place to ensure that all the above tasks have been completed and where appropriate agree an action plan for future practice based on lessons learned.

Where further investigation is required to inform consideration of disciplinary action or other due process the Head of Safeguarding, Line Manager and Senior HR representative should discuss who will undertake that with the LADO. In some settings and circumstances, it may be appropriate for the disciplinary investigation to be conducted by a person who is independent of the colleagues' area of work and line management and / or independent of WAHT. To ensure objectivity this would be conducted under the Trusts Disciplinary Policy or Conduct, Capability, Ill Health and Appeals Policies and Procedures for Medical and Dental staff

Where there is to be no Police involvement or the Police have indicated that WAHT internal process can continue, the internal investigation process may proceed.

If disciplinary action is deemed appropriate, then action will be initiated under WAHT HR Policy /procedure

### 5.7.1 Managing the Risk

These arrangements need to be applied with pertinent knowledge and judgement. While some allegations will be so serious as to require immediate action in referring to children's social care, adult social care, the Police and / or disciplinary measures, many concerns are rarely "open and closed".

Some cases are arguably less serious, and do not necessarily represent significant harm to children, young people or adults at risk but otherwise relate to standards of care or to the personal / professional conduct of an individual. All such concerns should still be taken earnestly and examined objectively by the LADO. The Police should always be consulted in the event of a possible criminal offence having been committed.

Where allegations are made directly to the Police or to children's or adults social care, the LADO must be informed at the earliest opportunity and agree the next steps with the Head of Safeguarding, including how concerns are to be followed up and in anticipating contingency measures, e.g. in the event of escalating concerns, including the prospects of expanding numbers of victims and/or staff members believed responsible (when a complex investigation may take place) and the relevant means of oversight and monitoring.

The LADO and the Head of Safeguarding will ensure mechanisms are in place with a view to learning lessons and determining any other action to be taken such as further training needs and anticipating any media interest.

Staff should not be suspended/ excluded automatically. The LADO, in conjunction with the Deputy Director of HR/Senior HR representative and Chief Nursing Officer will give consideration to the appropriateness of the staff member being suspended whilst the investigation takes place.

### 5.7.2 Action on Conclusion of a Case

The Police should inform the employer and the LADO as soon as a criminal investigation and any subsequent trial are complete, or if a decision is taken to close an investigation without charge. The LADO should then record this decision and discuss with the Head of Safeguarding whether any further action is required and if necessary how to proceed.

If the allegation is substantiated and the person concerned is dismissed (or the employer ceases to use the person's services or the person resigns), the LADO should discuss with the Line Manager and Senior HR Representative (and take legal advice where necessary) whether a referral is appropriate to the Disclosure and Barring Service. If the person is subject to registration or regulation by a professional body a referral must be made to the professional/regulatory body by the relevant Head of the Professional Service / Division with advice from HR

If on the other hand, upon the conclusion of a case it is decided that a person who has been suspended/excluded can return to work, the employer should consider how that might best be facilitated. Consideration may be given to how future contact between the employee and the parties concerned might best be managed.



If an allegation is substantiated, the employer or commissioner of the service should review the case in consultation with the LADO, to consider whether there are features of the organisation that may have contributed to, or failed to prevent, the abuse occurring so that lessons may be learnt. In some cases, a serious case review may be appropriate.

### 5.7.3 False or unfounded allegations

If an allegation is demonstrated to be unfounded, members of the PoT meeting should consider making a referral to children's or adults social care where it is felt that the child, young person or adult at risk may be in need of services, or may have been abused by someone else. In the rare event that an allegation is shown to have been deliberately invented or malicious, members of the PoT Meeting should consider discussing with the Police and employee as to whether any action may be appropriate.

If it is demonstrated that an allegation is deliberately invented or malicious this will be dealt with in line with the Trust Disciplinary Policy.

### 5.8 Disclosure & Barring Service (DBS)

#### Legal duty to refer

Regulated activity providers (employers or volunteer managers of people working in regulated activity in England, Wales and Northern Ireland) and personnel suppliers have a legal duty to refer to DBS where conditions are met. This applies even when a referral has also been made to a local authority safeguarding team or professional regulator. As an employer of staff in a 'regulated activity', WAHT has a legal duty to refer concerns to the DBS.

#### Legal duty to refer: the two conditions that must be met

If you are a regulated activity provider or fall within the category of personnel supplier, you must make a referral when both of the following conditions have been met:

##### Condition 1

You withdraw permission for a person to engage in regulated activity with children and/or vulnerable adults. Or, you move the person to another area of work that isn't regulated activity.

This includes situations when you would have taken the above action, but the person was re-deployed, resigned, retired, or left.

##### Condition 2

You think the person has carried out 1 of the following:

- engaged in relevant conduct in relation to children and/or adults. An action or inaction has harmed a child or vulnerable adult or put them at risk of harm or;
- satisfied the harm test in relation to children and / or vulnerable adults. e.g. there has been no relevant conduct but a risk of harm to a child or vulnerable still exists or;
- been cautioned or convicted of a relevant (automatic barring either with or without the right to make representations) offence

#### Relevant conduct in relation to children

A child is a person under 18 years of age.

Relevant conduct is:



- endangers a child or is likely to endanger a child
- if repeated against or in relation to a child would endanger the child or be likely to endanger the child
- involves sexual material relating to children (including possession of such material)
- involves sexually explicit images depicting violence against human beings (including possession of such images)
- is of a sexual nature involving a child

A person's conduct endangers a child if they:

- harm a child
- cause a child to be harmed
- put a child at risk of harm
- attempt to harm a child
- incite another to harm a child

Look at a list of [examples of harm to children](#)

### **Relevant conduct in relation to adults:**

A vulnerable adult is a person aged 18 years or over who is being provided with, or getting a service or assistance which is classed as regulated activity for adults.

Relevant conduct is:

- endangers a vulnerable adult or is likely to endanger a vulnerable adult
- if repeated against or in relation to a vulnerable adult would endanger the vulnerable adult or be likely to endanger the vulnerable adult
- involves sexual material relating to children (including possession of such material)
- involves sexually explicit images depicting violence against human beings (including possession of such images)
- is of a sexual nature involving a vulnerable adult

A person's conduct endangers a vulnerable adult if they:

- harm a vulnerable adult
- cause a vulnerable adult to be harmed
- put a vulnerable adult at risk of harm
- attempt to harm a vulnerable adult
- incite another to harm a vulnerable adult

A person satisfies the harm test if they may:

- harm a vulnerable adult
- cause a vulnerable adult to be harmed
- put a vulnerable adult at risk of harm

- attempt to harm a vulnerable adult
- incite another to harm a vulnerable adult

Look at a list of [examples of harm to vulnerable adults](#)

### What is harm?

This is not defined in legislation. DBS view harm as its common understanding or the definition you may find in a dictionary.

Harm is considered in its widest context and may include:

- sexual harm
- physical harm
- financial harm
- neglect
- emotional harm
- psychological harm
- verbal harm

This is not a fully comprehensive list; harm can take many different forms.

### What is the harm test?

A person satisfies the harm test if they may harm a child or vulnerable adult or put them at risk of harm. It is something a person may do to cause harm or pose a risk of harm to a child or vulnerable adult.

### Should I make a referral when an allegation is first made, or when I temporarily suspend someone?

When an allegation is made, you should investigate and gather enough evidence to establish if it has foundation. This will inform processes for any decision to dismiss or remove the person from working in regulated activity.

You should make a referral even if a significant period of time has passed between the allegation and the gathering of evidence to support a decision to make a referral.

You should complete your investigations and disciplinary processes (even if the person has left your employment). This is particularly important as DBS rely on referral evidence and any other relevant evidence gathered.

The duty to make a referral may not be triggered by temporary suspension, it depends if you have sufficient information to meet the referral duty criteria. You may suspend a person pending an investigation where there have been allegations of harm or risk of harm.

Following investigation, if you decide to let the person return to a position working in regulated activity with children or vulnerable adults then there may not be a legal duty to make a referral. But, if you decide to dismiss the person or remove them from working in regulated activity then you would need to make a referral.

### Key information for staff

Barring referral flowchart

[Referrals Flowchart \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Making a referral to the DBS Guidance

[Making barring referrals to the DBS - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

## 5.9 Support & Wellbeing

The Line Manager/Senior HR Representative in conjunction with the Head of Safeguarding should:

- decide how the person/child/adult at risk of harm or abuse, or their nominated carer who made the allegation is to be kept informed about what is happening to their allegation. In deciding what information to disclose, careful consideration should be given to the requirements of maintaining confidentiality.
- keep the member of staff or worker who is the subject of the allegation informed of the progress of the case, and inform them of what support is available for them. The staff or worker's Trade union, professional body or occupational health and wellbeing services can provide support.
- if the individual is a member of a trade union, they should be advised to make contact with their trade union at the outset of the Investigation and before any statements are required or given.

### 5.9.1 Support from other agencies

In cases where a child, young person or adult at risk may have suffered significant harm, or there may be a criminal prosecution, children's social care, adult social care or the Police (as appropriate), should consider what support the child, young person or adult at risk may require.

## 5.10 Managing lower level concerns that do not meet the 'harm' threshold

A low-level concern is any concern that an adult has acted in a way that:

- is inconsistent with the staff code of conduct, including inappropriate conduct outside of work
- doesn't meet the threshold of harm or is not considered serious enough for the employer to refer to the local authority.

Low-level concerns are part of a spectrum of behaviour. This includes:

- inadvertent or thoughtless behaviour
- behaviour that might be considered inappropriate depending on the circumstances
- behaviour which is intended to enable abuse.

Examples of such behaviour could include:

- being over friendly with children
- having favourites
- adults taking photographs of children on their mobile phone
- engaging with a child on a one-to-one basis in a secluded area or behind a closed door
- using inappropriate sexualised, intimidating or offensive language
- breaching professional boundaries

Responding to low-level concerns is part of creating a culture of openness and trust. It helps ensure that adults consistently model the Trusts and their regulatory bodies values /codes of conduct and helps keep our patients safe. It will also protect adults working within the Trust from potential false allegations or misunderstandings.

In the event of a low level concern, immediate advice should be sought from Human Resources or the Head of Safeguarding who will then advise. Consideration will be given to:

- context, intent and fact finding
- action taken or required
- investigation / onward referral to the LADO if required
- record keeping

## 6. Implementation

**6.1** The latest version of this Policy can be found on the Trust intranet site key document and safeguarding pages.

### 6.2 Dissemination

Staff will be advised of the updated Policy via dissemination by attendees of the Trust Integrated Safeguarding Committee and associated HR Forums.

### 6.3 Training and Awareness

This Policy will be available on the Trust intranet key document page and Safeguarding page. Staff groups will be made aware of the Policy via mandatory safeguarding training at the required level appropriate for their job role.

## 7. Monitoring and Compliance

Page/ Section of Key Document	Key control:	Checks to be carried out to confirm compliance with the Policy:	How often the check will be carried out:	Responsible for carrying out the check:	Results of check reported to: (Responsible for also ensuring actions are developed to address any areas of non- compliance)	Frequency of reporting:
	WHAT?	HOW?	WHEN?	WHO?	WHERE?	WHEN?
Policy compliance	Timely referral Actions taken – reasonable and proportionate based upon risk of harm Referral to regulatory bodies as required Referral to DBS as required GDPR standards met Record keeping standards met	Assurance audit with ICB Safeguarding Lead or Deputy	Annually	Head of Safeguarding  ICB Safeguarding Lead or Deputy	Integrated Safeguarding Committee then onwards via Trust governance committees /groups	Safeguarding Annual report
DBS referrals	Executive oversight and assurance timely referrals are being made where required and volume, nature of referrals made by WAHT	Assurance audit via DBS referral log	Annually on request from Chief Nursing Officer/Deputy	HR advisory team	Chief Nursing Officer and Deputy	Annually on request from the Chief Nursing Officer/Deputy

## 8. Policy Review

This Policy will be reviewed every 3 years in accordance with WAHT Key Document review process or in the event of any significant change to procedure.

## 9. References

The Trusts Disciplinary Policy WAHT-HR-017
Conduct, Capability, Ill Health and Appeals Policies and Procedures for Medical and Dental staff WAHT-HR-540
Freedom to speak Up (raising a concern) Policy WHAT-HR-097
The Trusts code of Conduct for employees in respect of Confidentiality WAHT-IG-001
The Trusts Information Communication Technology Policy WAHT-TWI-007
The Trusts Information Governance Policy WAHT-CG-579
The Trust Media Policy WAHT-HR-100
Regional Child Protection Procedures for West Midlands <a href="https://westmidlands.procedures.org.uk/ykpzy/statutory-child-protection-procedures/allegations-against-staff-or-volunteers/">https://westmidlands.procedures.org.uk/ykpzy/statutory-child-protection-procedures/allegations-against-staff-or-volunteers/</a>
Multi –agency Policy & Procedures for the Protection of Adults with care & support needs in the West Midlands <a href="https://www.safeguardingworcestershire.org.uk/wp-content/uploads/2020/06/West-Mids-Policy-and-Procedures-Nov-2109.pdf">https://www.safeguardingworcestershire.org.uk/wp-content/uploads/2020/06/West-Mids-Policy-and-Procedures-Nov-2109.pdf</a>
Worcestershire Safeguarding Adults Board - Protocol for responding to concerns about a person in a position of trust working with adults (PiPoT) (2018)
Managing Safeguarding Allegations Against Staff Policy and Procedure (NHS England updated 2019)
Chapter 2 Working Together to Safeguard Children and Young people (2015, revised 2018).
Care Act (2014).
Children Act (1989 / 2004)
Safeguarding Vulnerable Groups Act (2006)
WAHT Safeguarding Adults Pathway
WAHT Safeguarding Children's Pathway
Human Rights Act 1998
General Data Protection Regulations (2018)
Making barring referrals to the DBS <a href="https://www.gov.uk/making-barring-referrals-to-the-dbs">Making barring referrals to the DBS - GOV.UK (www.gov.uk)</a>
Worcestershire Children First <a href="#">Are you worried about an adult who works with children?   Are you worried about an adult who works with children?   Worcestershire County Council</a>
Information sharing Advice for practitioners providing safeguarding services to children, young people, parents and carers (HM Government, 2018) <a href="#">Information sharing advice practitioners safeguarding services.pdf</a>
The Records Management Code of Practice for Health and Social Care 2021 <a href="#">Records Management Code of Practice 2021 - NHS Transformation Directorate (england.nhs.uk)</a>
4ward Improvement Strategy <a href="#">4ward - Worcestershire Acute Hospitals NHS Trust (worcsacute.nhs.uk)</a>

## 10. Background

### 10.1 Equality requirements

Refer to Supporting Document 1.

### 10.2 Financial risk assessment

Refer to Supporting Document 2.

### 10.3 Contribution List

This key document has been circulated to the following individuals for consultation;

Designation
Integrated Safeguarding Committee representatives
LADO Worcestershire Children First
BAME, LGBTQ+ and Disability Networks
Freedom to Speak Up Guardian
Policy Working Group and Joint Negotiating & Consultative Committee
WAHT Caldicott Guardian and Information Governance team

This key document has been circulated to the chair(s) of the following committee's / groups for comments;

Committee
Integrated Safeguarding Committee
Policy Working Group
Joint Negotiating & Consultative Committee

### 10.4 Approval Process

This Policy will be approved via Policy working Group, Joint Negotiating & Consultative Committee and onward progression to CGG and Trust Governance Committees.

### 10.5 Version Control

Date	Amendment	By:
Jan 2023	V3 Review and update of current process and language throughout document. Inclusion of GDPR requirements. Linked to 4ward Improvement Strategy. Inclusion of Disclosure & Barring Service	Head of Safeguarding HR Manager



## Supporting Document 1 – Equality Impact Assessment form



**Herefordshire & Worcestershire STP - Equality Impact Assessment (EIA) Form**  
Please read EIA guidelines when completing this form

**Section 1 - Name of Organisation** (please tick)

Herefordshire & Worcestershire STP		Herefordshire Council		Herefordshire CCG	
Worcestershire Acute Hospitals NHS Trust	x	Worcestershire County Council		Worcestershire CCGs	
Worcestershire Health and Care NHS Trust		Wye Valley NHS Trust		Other (please state)	

<b>Name of Lead for Activity</b>	Deborah Narburgh – Head of Safeguarding Carol Deakin – HR Manager
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<b>Details of individuals completing this assessment</b>	<b>Name</b>	<b>Job title</b>	<b>e-mail contact</b>
	Deborah Narburgh	Head of Safeguarding	deborah.narburgh@nhs.net
	Carol Deakin	HR Manager	carol.deakin@nhs.net
<b>Date assessment completed</b>	11.01.2023		

**Section 2**

Activity being assessed (e.g. policy/procedure, document, service redesign, policy, strategy etc.)	<b>Title:</b> Safeguarding - Managing Allegations against People in a Position of Trust Policy (PiPoT)
What is the aim, purpose and/or intended outcomes of this Activity?	<p>The purpose of this Policy is to provide a framework for managing allegations made about colleagues whether working in a paid, contractual or voluntary capacity that might indicate that a child, young person or adult is believed to have suffered or is likely to suffer, significant harm or, where a colleague is behaving in a way that suggests they are unsuitable to work with such groups of people. This framework ensures appropriate actions are taken to manage such allegations, regardless of whether they are made in connection with a colleagues' duties with WAHT or if they fall outside of this i.e. in their private life or any other capacity.</p> <p>This Policy ensures all colleagues are dealt with fairly and consistently in a way that provides effective protection for the adult, child or young</p>

	person and at the same time supports the individual whom is the subject of the allegation.			
Who will be affected by the development & implementation of this activity?	<input checked="" type="checkbox"/> Service User <input checked="" type="checkbox"/> Patient <input checked="" type="checkbox"/> Carers <input checked="" type="checkbox"/> Visitors	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	Staff Communities Other _____	
Is this:	<input checked="" type="checkbox"/> Review of an existing activity New activity Planning to withdraw or reduce a service, activity or presence?			
What information and evidence have you reviewed to help inform this assessment? (Please name sources, eg demographic information for patients / services / staff groups affected, complaints etc.	As detailed within reference list			
Summary of engagement or consultation undertaken (e.g. who and how have you engaged with, or why do you believe this is not required)	As detailed within Policy document			
Summary of relevant findings	This Policy applies to all colleagues whether working in a paid, contractual or voluntary capacity.			

## Section 3

Please consider the potential impact of this activity (during development & implementation) on each of the equality groups outlined below. **Please tick one or more impact box below for each Equality Group and explain your rationale.** Please note it is possible for the potential impact to be both positive and negative within the same equality group and this should be recorded. Remember to consider the impact on e.g. staff, public, patients, carers etc. in these equality groups.

Equality Group	Potential <u>positive</u> impact	Potential <u>neutral</u> impact	Potential <u>negative</u> impact	Please explain your reasons for any potential positive, neutral or negative impact identified
Age		X		Policy applies to adults, children & young people
Disability		X		Policy applies to adults, children & young people
Gender Reassignment		X		Policy applies to adults, children & young people
Marriage & Civil Partnerships		X		Policy applies to adults, children & young people
Pregnancy & Maternity		X		Policy applies to adults, children & young people Policy circulated to Named Midwife as part of consultation
Race including Traveling Communities		X		Policy applies to adults, children & young people

Equality Group	Potential <u>positive</u> impact	Potential <u>neutral</u> impact	Potential <u>negative</u> impact	Please explain your reasons for any potential positive, neutral or negative impact identified
				Policy circulated to BAME Lead as part of consultation process
Religion & Belief		X		Policy applies to adults, children & young people
Sex		X		Policy applies to adults, children & young people
Sexual Orientation		X		Policy applies to adults, children & young people Policy circulated to BAME Lead as part of consultation
Other Vulnerable and Disadvantaged Groups (e.g. carers; care leavers; homeless; Social/Economic deprivation, travelling communities etc.)		X		Policy applies to adults, children & young people
Health Inequalities (any preventable, unfair & unjust differences in health status between groups, populations or individuals that arise from the unequal distribution of social, environmental & economic conditions within societies)		X		Policy applies to adults, children & young people

## Section 4

What actions will you take to mitigate any potential negative impacts?	Risk identified	Actions required to reduce / eliminate negative impact	Who will lead on the action?	Timeframe
How will you monitor these actions?				
When will you review this EIA? (e.g in a service redesign, this EIA should be revisited regularly throughout the design & implementation)				

## Section 5 - Please read and agree to the following Equality Statement

### 1. Equality Statement

Managing Allegations Against People in a Position of Trust Policy (PIPOT)		
WAHT-HR-098	Page 25 of 27	Version 3

1.1. All public bodies have a statutory duty under the Equality Act 2010 to set out arrangements to assess and consult on how their policies and functions impact on the 9 protected characteristics: Age; Disability; Gender Reassignment; Marriage & Civil Partnership; Pregnancy & Maternity; Race; Religion & Belief; Sex; Sexual Orientation

1.2. Our Organisations will challenge discrimination, promote equality, respect human rights, and aims to design and implement services, policies and measures that meet the diverse needs of our service, and population, ensuring that none are placed at a disadvantage over others.

1.3. All staff are expected to deliver services and provide services and care in a manner which respects the individuality of service users, patients, carer's etc, and as such treat them and members of the workforce respectfully, paying due regard to the 9 protected characteristics.

<b>Signature of person completing EIA</b>	D Narburgh
<b>Date signed</b>	11.01.2023
<b>Comments:</b>	xxx
<b>Signature of person the Leader Person for this activity</b>	xxx
<b>Date signed</b>	xxx
<b>Comments:</b>	xxx

## Supporting Document 2 – Financial Impact Assessment

To be completed by the key document author and attached to key document when submitted to the appropriate committee for consideration and approval.

	Title of document:	Yes/No
1.	Does the implementation of this document require any additional Capital resources	No
2.	Does the implementation of this document require additional revenue	No
3.	Does the implementation of this document require additional manpower	No
4.	Does the implementation of this document release any manpower costs through a change in practice	No
5.	Are there additional staff training costs associated with implementing this document which cannot be delivered through current training programmes or allocated training times for staff	No
	Other comments:	N/A

If the response to any of the above is yes, please complete a business case and which is signed by your Finance Manager and Directorate Manager for consideration by the Accountable Director before progressing to the relevant committee for approval