

Adult Social Services

Right Help, Right Time to Promote Independence

The Person in a Position of Trust (PiPoT)

Person in a Position of Trust Policy Governance

Title	Person in a Position of Trust (PiPOT)
Purpose/scope	The Policy is designed to ensure that if information is shared or disclosed it is done so in accordance with the law
Subject key words	Person in a Position of Trust PiPOT
Council Priority	Protect and support our vulnerable children and adults Improve the health and wellbeing of our communities and address health inequalities
Lead author & contact details	Service Delivery Manager: Mental Capacity and Safeguarding
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Content

1	Policy Statement
2	Purpose of the Policy
3	Policy Information
3.1	Service-Specific Information
4	Procedure Statement
5	Procedure Details
5.1	Roles and Responsibilities
5.2	Managing Officers
5.3	The DASM
5.4	Commissioning and Care Contracts
5.5	Employers
5.6	Decision Making
5.7	Consent to Share Information
5.8	Circumstances when PiPOT not Informed
5.9	Key Stakeholders
5.10	POP Planning Discussion/Meeting
5.11	Enquires/Immediate Actions
5.12	Monitoring and Timescales
5.13	Valuate and Conclude
6	Recording and Retention of Information
6.1	PiPOT Monitoring Log
7	Policy Implications
7.1	Legal Implications
7.2	Financial and Value for Money Implications
7.3	Economic Impact
7.4	Environmental Impact
7.5	Other Impacts
8	Cross Reference Information
8.1	Standards
8.2	Legislation
8.3	Systems Implications
9	Other Related Documents
10	Linked Policies
11	Appendices App 1 DPA Extract App 2 Flow Chart App 3 Factors to consider in relation to PiPOT Notifications App 4 West Midlands PiPOT Risk Balance Sheet

1. POLICY STATEMENT

The Person in a Position of Trust (“PiPoT”) Policy & Procedures provides a process for investigating allegations that a person in a position of trust has abused their position and how information will be shared. It is used alongside and supported by The West Midlands People in Position of Trust Guidance.

2. PURPOSE OF THE POLICY

The Policy is designed to ensure that if information is shared or disclosed it is done so in accordance with the law but in such a way that allows appropriate and proportionate enquiries to be made that ensures adults at risk are protected and public confidence in services maintained.

3. POLICY INFORMATION

The Policy & procedures must be followed in all cases where there is an allegation that a person working with adults at risk has:

- A conviction for an offence against or related to an adult at risk, or is suspected of committing such an offence
- Behaved in a way that has harmed or may have harmed an adult at risk
- Behaved towards an adult at risk in such a way as to indicate that they are unsuitable to work with adults at risk
- Behaved in a way that has harmed children or may have harmed children which means their suitability to provide a service to adults at risk must be reviewed
- Behaved in a way that calls into question their suitability to provide a service to an adult at risk e.g. has a conviction for a violent offence against a person who is not an adult at risk

In addition, it will apply whether the information relates to a current or a historical allegation. Whilst this policy and procedure is concerned with potential harm to adults at risk, if the allegation is such that there is a concern that the person may also pose a risk to children then Children’s Services must be informed. Staff are reminded that it is their duty to refer current and historical allegations of abuse against children to Children’s Services whether the alleged perpetrator is a PiPoT or not.

Concerns about the PiPoT’s behaviour may be identified by the following procedures:

- Police intervention or investigation
- Whistle blowing
- Safeguarding adults
- Safeguarding children
- Complaints
- Members of public
- Commissioners of services
- Any other source of disclosure

Although throughout the Protocol, the PiPoT is referred to as a male i.e. “he”, it must be remembered that the PiPoT may be female.

It must also be remembered that where examples are given, they are for illustrative purposes only and should not be viewed as limiting the scope of the issue.

If the allegation relates to events that occurred outside the boundary of Telford & Wrekin Council, a referral must be made to the local authority in which area the events occurred.

If the PiPoT resigns or is dismissed before the conclusion of the PiPoT process, then the process will continue to a conclusion and decisions made as if the PiPoT was still employed. Any decisions regarding disclosure to new or future employers will need to take into account the decision-making process for disclosing information contained within this Protocol.

3.1 Service-Specific Information

Historical Allegations

Where Position of Trust “PoT” information relates to historical abuse it is important to ascertain if the person is currently working with adults with care and support needs or with children and if that is the case, to consider whether the current employer should be informed of this. This would become an adult PoT concern if the person currently works with or has contact with adults with care and support needs. Consideration must be given to whether a referral is made to the police and / or safeguarding procedures should be instituted in respect of the adult at risk and / or the PiPoT’s employer or former employer.

A historical allegation of:

- Child abuse must be referred to Children’s Services for investigation, and to the Police.
- Adult abuse, where there is no current risk to the adult with care and support needs who is making the allegation of historic abuse. This would become an adult PoT concern if the alleged person causing harm currently works with or has contact with adults with care and support needs.
- An out of area allegation of adult or child abuse must be referred to the appropriate Local Authority Designated Officer or Designated Adult Safeguarding Manager in the area where the alleged abuse took place. It is essential that discussion takes place between agencies to decide who is the most appropriate to deal with the case.

Where an historical allegation is made it will be important to ascertain whether the PiPoT continues to work with adults at risk. If they do, then the process stated in Appendix 2 will apply. If they do not, consideration must be given to whether a referral is made to the police and / or safeguarding procedures should be instituted in respect of the adult at risk and / or the PiPoT’s employer or former employer.

Information Sharing

Existing information sharing protocols should be followed when investigating allegations of abuse against adults at risk

Personal data shall be processed in accordance with the principles contained in Part I of Schedule 1 of the Data Protection Act 1998 (“the DPA”). These principles are reproduced in Appendix 1.

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

- *Everyone has the right to respect for his private and family life, his home and his correspondence.*
- **and**
- *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*

When deciding whether to interfere with a person's Art 8 rights, each case must be judged on its own facts. The issue is essentially one of proportionality. Information is to be disclosed only if there is a "pressing need" for that disclosure and information can be shared with sound justification. In considering proportionality, consideration must be given to the following general principles

- the legitimate aim in question must be sufficiently important to justify the interference,
- the measures taken to achieve the legitimate aim must be rationally connected to it,
- the means used to impair the right must be no more than is necessary to accomplish the objective,
- a fair balance must be struck between the rights of the individual and the interests of the community; this requires a careful assessment of the severity and consequences of the interference where consideration has already been given to whether the aim can be met without sharing personal data

"There is a general presumption [which is not absolute] that information should not be disclosed, such a presumption being based upon a recognition of (a) the potentially serious effect on the ability of [in this case convicted people] to live a normal life; (b) the risk of violence to such people and (c) the risk that disclosure might drive them underground." (regional PoT guidance)

Before actually disclosing information to a third party, there is a need to consult with the person whose information is to be disclosed and to give them an opportunity of making representations before the information is disclosed. ("The imposition of such a duty is a necessary ingredient of the process if it is to be fair and proportionate"). However there maybe such situations where a public duty to respond to risk presented outweighs the duty to consult with the person. (regional PoT guidance)

Information may be shared by an individual or an agency in the expectation that it will not be shared with others i.e. it will be kept confidential. Often, a person will preface the disclosure with 'I am telling you this in confidence' or, after making the disclosure, will say 'you won't tell anyone will you?' Staff are reminded that they are not able to provide a blanket agreement not to share information with others. It is legal to disclose confidential information if it is justified as being in the public interest e.g. for the detection and prevention of crime and for the protection of vulnerable persons i.e. children or adults at risk. It is a matter of professional judgment, acting in accordance with information sharing protocols and the principles of the Data Protection Act 1998 to decide whether breaching a PiPoT's confidentiality is in the public interest and complies with legislation.

4. PROCEDURE STATEMENT

This Protocol should also be read in conjunction with the Safeguarding Adults Board ("SAB") policies and procedures and supporting guidance. There are also links and references to policies, procedures and guidance with regard to safeguarding children.

This Protocol is a publicly available document and can be accessed via the MyLife Portal and the Intranet for internal staff.

5 PROCEDURE DETAILS

5.1 ROLES & RESPONSIBILITIES:

POLICE will:

Report to the Designated Adult Safeguarding Manager (DASM) when they know a PiPoT has behaved in a way that may pose a risk to vulnerable people.

Where there is a Police led investigation, the Police will be responsible for deciding what information should be shared with whom and on what basis, bearing in mind the contents of this Protocol and their responsibilities under the Notifiable Occupation Scheme Disclosure Policy and / or non-conviction disclosure. This decision must be recorded in accordance with best practice.

Request that the employer(s) consider taking appropriate action in line with their own procedures to ensure adults at risk are protected from any potential abuse and harm.

Where it is a Police led investigation, request that employer(s) carry out their own risk assessment(s) and consider referral to the Disclosure and Barring Services (DBS) and / or other registration bodies as appropriate.

Liaise with the Care Quality Commission and the DBS if there are concerns about the employer(s) fitness to operate and safeguard adults/children at risk.

Liaise with other Local Authority Safeguarding Adults and Children's Teams where there are out of area issues.

Make a referral to the LADO if there are specific issues about the PiPoT's contact with children through the CIAS service.

Seek advice as appropriate from the Telford & Wrekin Safeguarding Adults Team and with police consent attend / share relevant police information (refer to SAB multi agency Information sharing agreement) at any subsequent PiPoT strategy meeting. Any police information shared is for safeguarding purposes only and must not be used for any subsequent disciplinary proceedings without the permission of West Mercia Police or other relevant Police force..

5.2 **ADULT SAFEGUARDING OFFICERS** will:

- Inform the DASM in cases where a PiPoT is involved and there may be a risk to vulnerable adults so local recording arrangements can be followed.
- Where there is no concurrent Police investigation, be responsible for deciding what information should be shared with whom and on what basis, bearing in mind the contents of this procedure. This decision must be recorded in accordance with best practice and legislation.
Where it is appropriate to do so, involve the PiPoT's employer in the safeguarding process. Inform Commissioning and Care Contracts if the employer is a contracted service and involve them in the safeguarding process.
- Ensure that when an adult has been safeguarded but the PiPoT process continues, the adult is monitored according to local arrangements until the PiPoT process is concluded.
- Liaise with the CQC and the DBS if there are concerns about the employer's fitness to operate and safeguard adults at risk.
Liaise with other Local Authority Safeguarding Adults Teams where there are cross border issues.

- Liaise with Children Teams and make a referral to the LADO if there are specific issues about the PiPoT's contact with children.

5.3 THE DASM will:

- Record according to local arrangements. The record should include details of the person referring, unless anonymous, the PiPoT, the allegation, how the allegation was followed up and resolved, the decisions reached and the action taken. The record should be kept in accordance with DPA principles and should only be shared in accordance with this Protocol.
- If not a Safeguarding Adult or Safeguarding Children case, provide advice guidance or, where appropriate, direct suitable enquiries to ascertain the truth or otherwise of allegations and be responsible for deciding what information should be shared with whom and on what basis, bearing in mind the contents of this Protocol. This decision must be recorded in accordance with best practice.
- Liaise with the CQC and the DBS if there are concerns about the employer's fitness to operate and safeguard adults at risk.
- Liaise with other Local Authority Safeguarding Adults Teams where there are cross border issues.
- Liaise with Children Teams and make a referral to the LADO if there are specific issues about the PiPoT's contact with children
Report PiPoT activity data to the Safeguarding Adults Board as per local arrangements.

5.4 COMMISSIONING AND CARE CONTRACTS will:

- Ensure commissioned services do the following:
- Report any adult safeguarding concerns to the local authority
- take appropriate action in line with their own procedures to ensure adults at risk are protected from abuse and harm,
- carry out appropriate risk management procedures, including consideration of referrals to the DBS and other registration bodies,
- Provide feedback at regular intervals until case conclusion.
- Monitor the activities of commissioned services in their compliance of the matters contained in paragraphs 5.5
- Regularly update the PiPoT contact until case conclusion.

5.5 EMPLOYERS (statutory, voluntary and private) are expected to:

- Take appropriate action in line with their own procedures to ensure adults at risk are protected from abuse and harm.
- Carry out appropriate risk management procedures, including referrals to the CQC, the DBS and other registration bodies as appropriate.
- Provide feedback at regular intervals to Commissioning and Care Contracts until case conclusion.
- Ensure the protection of adults is central to their decision making.
- Ensure the organisation has a range of policies and procedures Ensure all safeguarding and PiPoT concerns are reported.
- Share information in line with these procedures where it is known the PiPoT also has other employment or voluntary work with adults with care and support needs and or children.

5.6 DECISION MAKING

Is it a PoT Concern?

The owner of the information and Designated Adult Safeguarding Manager (DASM) must on the information provided determine if the situation is a position of trust (“PoT”) concern or if other procedures should be used. At this stage, the DASM can give advice and guidance and agree what action, if any, is to be undertaken. The DASM will make a record of the discussion and decision that has taken place. It is important that these details are recorded and could be drawn upon if further concerns arise in relation to that individual. It also provides a record that ‘a risk was not identified’ about the individual.

A PoT concern referral form should be completed and sent to the most appropriate DASM.

Yes - a PoT concern

If the owner of the information and / or the DASM concludes the concern does meet the definition of a PoT concern, PoT procedures need to be followed. The primary considerations at this point are:

- Is there an adult with care and support needs (Care Act 2014 Section 42 enquiry) or a child (Section 47 enquiry, Children Act 1989) who needs safeguarding under relevant procedures? A safeguarding concern must be raised immediately.
- Is there more than one PiPoT?
- Is/are the PiPoT/s aware of the referral/s and has consent to share information been given?

5.7 CONSENT TO SHARE INFORMATION

If the PiPoT is not aware that the concern has been referred as a PoT concern, the holder of the information is responsible for informing them and seeking consent to share further. However there maybe such situations where the public duty to respond to the risk presented outweighs the duty to consult with the person who is the PiPoT.

If the holder of the information is not a professional, e.g. a member of the public, the professional receiving the concern is responsible for ensuring the information is passed securely to the relevant DASM.

If the PiPoT does not consent to the information being shared there maybe such situations where the public duty to the respond to risk presented outweighs the duty to consult with the person who is the PiPoT.

There are six key areas all of which must be considered when deciding if, what and how information is shared (see West Midlands Adult Safeguarding Position of Trust (PoT) Guidance February 2015).

Each of these areas provides a different perspective, some of which overlap so they must be considered in totality. They are:

- Right to Private Life - Article 8 – European Convention on Human Rights
- Data Protection Act 1998 requirements
- Common Law of Confidentiality

- Disclosure of Information by Public Bodies to other agencies
- 'Pressing need' test
- Care Act 2014 Sections 42 to 47 and Chapter 14 Care and Support Statutory Guidance October 2014

Each case must be dealt with **on its own facts** and for each case balancing the right to a private life of the PiPoT and legal requirements to protect the public interest. The employer, DASM, and supporting processes must show **justification and proportionality** - particularly on the issue of breaching someone's right to confidentiality. Legal advice may be sought due to the **legal complexities** involved and to ensure the DASM is acting in accordance with the law. There will be cases where information has to be shared without consent.

5.8 CIRCUMSTANCES WHEN PiPoT NOT INFORMED

At concern referral stage after weighing up the above 6 areas a risk assessment will need to be completed to determine if informing the PiPoT will place any adults and/or children at increased risk of potential or actual harm. In these circumstances, the PiPoT should not be informed. However, the PoT planning process must identify the earliest opportunity for them to be informed.

5.9 KEY STAKEHOLDERS

It is important to identify all of the key stakeholders in the case which could include

- The Employer (supervisor/line manager/ Human Resources (HR) manager)
- If commissioned services contract and commission (Health/Social Care/etc.)
- If a regulated service, the appropriate regulator, (CQC, Ofsted)
- If a potential criminal concern , the police
- If adult with care and support needs, the case holder in Adult Social Care
- If children involved, Children's Services
- Other case specific e.g. University representative if a student

5.10 PoT PLANNING/DISCUSSION MEETINGS

The employer and relevant DASM will need to decide, on the grounds of urgency and risk, the best way to share information, risk assess and plan the lines of enquiry. The options would be a discussion, conference call or formal meeting. Complex cases and/or those with many stakeholders are likely to require a meeting. Records must be kept according to organisational procedures.

5.11 ENQUIRIES/IMMEDIATE ACTIONS

At the planning discussion/meeting the following areas will be covered and recorded:

- Confidentiality agreement
- Sharing the PoT concern and purpose of the meeting
- Information from information holders and attendees
- Risk assessment
- Whether a crime has potentially been committed
- Agree lines of enquiry (who is doing what and by when)
- Identify actions to be taken in respect of adults with care and support needs and support to PiPoT.
- Feedback mechanisms (to whom, by whom).
- Agree next step and actions.

5.12 MONITORING AND TIMESCALES

It is important that Position of Trust concerns are managed in a timely way. Timescales should be identified at the planning stage wherever possible. Regular monitoring is essential to ensure procedures are kept on track and risks are managed. Additional meetings can take place at any time, as deemed necessary.

5.13 EVALUATE AND CONCLUDE

Any concerns raised through the PoT process must reach an agreed conclusion and can include:

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

6. RECORDING AND RETENTION OF INFORMATION

The purpose of the PoT record keeping is to:

- Enable accurate information to be given in response to any future request for a reference.
- Provide clarification in cases where a future DBS Disclosure reveals information from the Police that an allegation was made but did not result in a prosecution or conviction.
- Prevent unnecessary re-investigation if an allegation resurfaces after a period of time.
- Enable patterns of behaviour, which may pose a risk to adults with care and support needs, to be identified

Accurate record-keeping is an integral part of all safeguarding processes. Individuals with responsibility for the investigation and management of PoT allegations must, as far as is practicable, contemporaneously document a complete account of the events, actions and any decisions taken, together with their rationale. This is to enable any objective person to understand the basis of any decision that was made, together with any subsequent action taken.

Employers are required to maintain records pertaining to allegations made in respect of an adult at risk. Similarly they must also maintain records of any concerns that relate to the welfare or safety of an adult at risk. Employers are under a legal obligation to properly disclose information held within such records to the Police or social care agencies as required. The Data Protection Act 1998 stipulates how personal information should be managed and therefore should be adhered to.

Personal data must be kept secure and up-to-date and must not be retained beyond the purpose for which it was obtained. *See local record retentions policy.*

Records of every stage of the investigation process will be securely maintained by the DASM, thus allowing for subsequent decisions to be made upon the most full, accurate and timely information available. These records will permit the rationale behind key decisions to be traced, scrutinised and justified, where necessary.

A chronology or log of key events, decisions and actions taken is maintained and stored securely and password protected in the safeguarding team to provide a ready overview of progress. (see PiPOT monitoring log)

Individuals are entitled to ask for subject access to their personal records whether they are stored electronically or manually. See *local access to records policy*.

6.1 PiPoT MONITORING LOG

To ensure that adults with care and support needs are safeguarded, and to assure the Safeguarding Adults Board that adults with care and support needs are protected from harm, all cases will be logged and monitored in accordance with this Protocol. PiPoT activity data will be:

- Reported as per local arrangements to the Safeguarding Adult Board e.g. used to identify trends and patterns, and quality assurance.
- Legal advice will be sought and if necessary shared (with the consent of the legal adviser) with any other relevant party to ensure the safety of adults with care and support needs and children, ensuring local information sharing protocols are followed.

7 POLICY IMPLICATIONS

7.1 Legal Implications

- This Policy outlines the Local Authority's obligations for the provision of services under the Care Act 2014 and its supporting regulations and statutory guidance, in particular Sections 42 to 47 and Chapter 14 of the Care and Support Statutory Guidance (October 2014) in respect of safeguarding

7.2 Finance and Value for Money Implications

It is intended that PoT will be responded to within existing safeguarding resources

7.3 Economic Impact

There is no economic impact associated with this policy.

7.4 Environmental Impact

There is no direct environmental impact associated with this policy.

7.5 Other Impacts

8 CROSS REFERENCE INFORMATION

8.1 Standards

HCPC (Health and Care Professions Council) is the regulator for Social Services

8.2 Legislation

- Care Act 2014

8.3 Systems Implications

8.4 Other Relevant Documents

- The Care Act 2014 Sections 42 to 47 and Chapter 14 Care and Support Statutory Guidance (October 2014)
- supporting guidance for Safeguarding Adults
- The West Midlands guidance for responding to PiPoT February 2015
- The West Midlands Adult Safeguarding Policy and Procedures 2015/16

9 Linked Policies

The following policies and procedures will support when making PiPoT decisions:

- Code of Practice / Code of Conduct for employees
Disciplinary procedures including when an employee may be suspended from duty and what to do if an employee resigns in the middle of a disciplinary procedure.
- Contracts of employment and Job Descriptions should include:
 - Criminal convictions procedure
 - Safeguarding responsibilities
 - PiPoT responsibilities
- DBS Referral procedure
- Information sharing protocol
- Domestic Abuse Policy
- Whistle Blowing Policy
- Professional standards and codes of conduct

This Protocol impacts on all Adult Social Services policies and procedures as detailed in the central register held by the Service Improvement & Efficiency Team.

10 Acknowledgements

With thanks to the safeguarding leads in West Midlands local authorities for sharing best practice. This includes the local authorities of Birmingham, Warwickshire and Coventry.

APPENDIX 1 – DPA 1998 Extract

SCHEDULE 1 PART I - THE PRINCIPLES

1. Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—
 - (a) At least one of the conditions in Schedule 2 is met, and
 - (b) In the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.
2. Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
4. Personal data shall be accurate and, where necessary, kept up to date.
5. Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
6. Personal data shall be processed in accordance with the rights of data subjects under this Act.
7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
8. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

SCHEDULE 2 - CONDITIONS RELEVANT FOR PURPOSES OF THE FIRST PRINCIPLE: PROCESSING OF ANY PERSONAL DATA

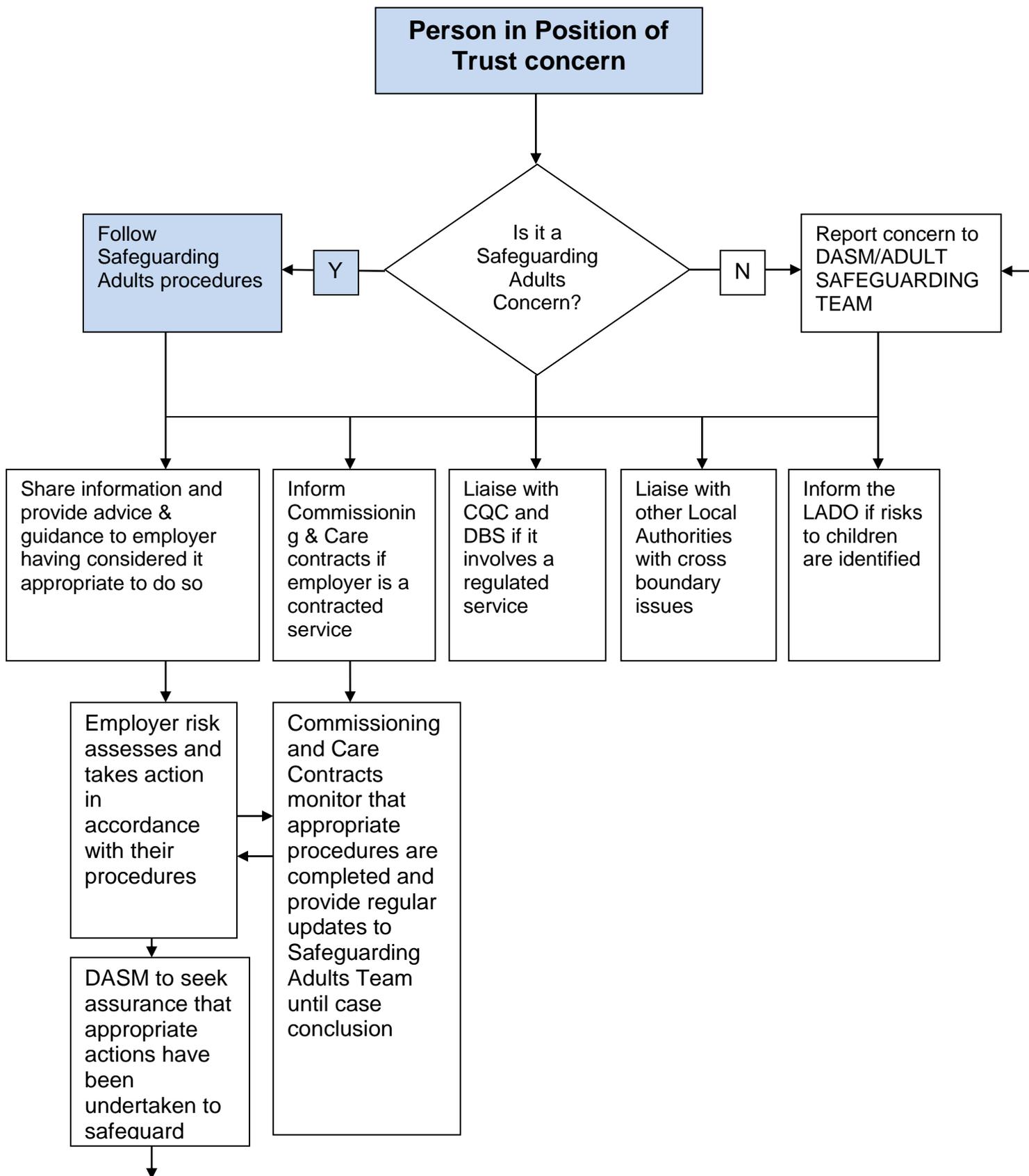
1. The data subject has given his consent to the processing.
2. The processing is necessary—
 - (a) For the performance of a contract to which the data subject is a party, or
 - (b) For the taking of steps at the request of the data subject with a view to entering into a contract.
3. The processing is necessary for compliance with any legal obligation to which the data controller is subject, other than an obligation imposed by contract.
4. The processing is necessary in order to protect the vital interests of the data subject.
5. The processing is necessary—
 - (a) For the administration of justice,
 - (aa) for the exercise of any functions of either House of Parliament,
 - (b) for the exercise of any functions conferred on any person by or under any enactment,
 - (c) for the exercise of any functions of the Crown, a Minister of the Crown or a government department, or
 - (d) for the exercise of any other functions of a public nature exercised in the public interest by any person.

SCHEDULE 3 - CONDITIONS RELEVANT FOR PURPOSES OF THE FIRST PRINCIPLE: PROCESSING OF SENSITIVE PERSONAL DATA

1. The data subject has given his explicit consent to the processing of the personal data.

- 2(1) The processing is necessary for the purposes of exercising or performing any right or obligation which is conferred or imposed by law on the data controller in connection with employment.
- 2(2) The Secretary of State may by order—
- (a) exclude the application of sub-paragraph (1) in such cases as may be specified, or
 - (b) provide that, in such cases as may be specified, the condition in sub-paragraph (1) is not to be regarded as satisfied unless such further conditions as may be specified in the order are also satisfied.

APPENDIX 2 - Flowchart



APPENDIX 3 – Factors to consider in relation to PiPoT notifications

The following applies to all cases where current or historical concerns, suspicions or allegations arise in connection with:]

- The PiPoT's own work/voluntary activity (Adults and Children)
- The PiPoT's life outside work i.e. concerning adults at risk in the family, social circle.
- The PiPoT's life outside work i.e. concerning risks to children, the individual's own children or other children.

Questions	No cause for concern	Some cause for concern requiring investigation	Cause for concern
1. The person has behaved in a way that has harmed or may have harmed an adult at risk?	No harm or potential harm	Some harm or potential harm	Serious harm or potential harm
2. Possibly committed criminal offence against or related to an adult/s at risk?	No	Not to an adult at risk but the offence is serious	Yes
3. Otherwise behaved towards an adult/s at risk or in a way that indicates s/he is unsuitable to work with adult/s at risk.	No	Yes	
4. Has the person behaved in a way that has harmed children or may have harmed children which means their ability to provide a service to adults at risk must be reviewed?	No	Yes	
5. May be subject to abuse themselves which means their ability to provide a service to adults at risk must be reviewed	NO	YES	
6. Behaved in a way which questions their ability to provide a service to adults at risk which must be reviewed – e.g. conviction for grievous bodily harm who is not an adult at risk.	NO	YES	
	ALL GREEN NOT SAFEGUARDING OR PIPOT	MORE THAN TWO AMBER FOLLOW PIPOT PROCEDURE	ONE OR MORE RED FOLLOW SAFEGUARDING PROCEDURES

APPENDIX 4 Managing Concerns

MANAGING CONCERNS AND ALLEGATIONS AGAINST PEOPLE WHO WORK WITH ADULTS WITH CARE AND SUPPORT NEEDS	
Process for dealing with the concern about the person in a position of trust (POT concern)	Role of the Designated Adult Safeguarding Manager (DASM)
<p>Whose information is it?</p> <p>Concern can be identified or raised in different ways</p> <ul style="list-style-type: none"> e.g. Concern raised through partner / agency duties. e.g. Police. e.g. member of the public or other 3rd party informs the partner / agency. e.g. information shared by LADO through Childrens processes. <p>Concern or allegation is received by a relevant partner*, or agency member of the local Safeguarding Adults Board.</p> <p>The DATA CONTROLLER is identified. (This will usually be the relevant partner, or SAB member agency who first receives the information).</p>	<p>Advice and Guidance</p> <p>The relevant DASM (Local Authority, NHS or Police) should-</p> <ul style="list-style-type: none"> - provide advice and guidance within their organisation, liaising with other agencies as necessary, - advise whether the relevant criteria for using this process are met, - monitor the progress of cases to ensure they are dealt with as quickly as possible, consistent with a thorough and fair process, - ensure that referral of individual employees to the DBS and/or regulatory bodies are made promptly and appropriately.
<p>Decision - Can the information be shared?</p> <p>The DATA CONTROLLER must decide whether it will disclose the information to the employee/volunteer's employer & any relevant others.</p> <p>NO</p> <p>Data controller makes a clear record giving the rationale of why the information has not been shared.</p> <p>YES</p> <p>Unless it puts an adult or a child in danger, the employee/volunteer should be informed what information about them will be shared, wherever possible seek their consent to share the information, and be given a right to reply.</p>	<p>Advice and Guidance</p> <p>When sharing information about adults, children and young people at risk between agencies, it should only be shared:</p> <ul style="list-style-type: none"> - where relevant and necessary, not simply all the information held; - with the relevant people who need or some of the information; and - where there is a specific need for the information to be shared at that time. <p>Particular care must be taken to not breach relevant human rights (e.g. Article 6, 8). Decisions to share information must be justifiable and proportionate, based on potential or actual harm to adults or children. There may be times when a person's conduct towards an adult may impact on their suitability to work with children. These situations must be referred to the LADO.</p> <p>Records Management</p> <p>The relevant DASM should ensure that appropriate recording systems are in place that provide clear audit trails about decision-making and recommendations.</p>
<p>Risk management / Employer actions</p> <p>The Data Controller shares information with the employer (or volunteering manager) and notifies the relevant DASM.</p> <p>The employer (or volunteering manager) assesses the risk, and may investigate allegations through internal employment processes where it is appropriate to do so.</p> <p>The employer (or volunteering manager) takes risk management actions as appropriate to the individual case.</p>	<p>Oversight and Assurance</p> <p>The relevant DASM (Local Authority, NHS or Police) should-</p> <ul style="list-style-type: none"> - monitor the progress of cases to ensure they are dealt with as quickly as possible, consistent with a thorough and fair process, - maintain oversight and assure that appropriate and proportionate risk management actions have been taken, - ensure that systems are in place to provide the employee with support and regular updates, - ensure that referral of individual employees to the DBS and/or regulatory bodies are made promptly and appropriately.

NB. * "relevant partners" as defined in Section 6, Care Act 2014.