

**Principals to inform
People in Positions of Trust (PiPoT)**

July 2021



Foreword

The Safeguarding Adult National Network (SANN) is a safeguarding community of practice providing the national voice of adult safeguarding leads across health and care.

SANN aims to:

- Develop a strategic focus; encourage Clinical Commissioning Groups (CCGs)/ Integrated Care Systems (ICSs)/Provider health organisations to quality improve and share learning.
- Promote effective communication to ensure that any learning from Safeguarding Adult Reviews (SARs) or other adult reviews are embedded in practice.
- Share examples of good practice in safeguarding issues.
- Review and respond to national consultation documents.
- Provide a 'Think Family' trauma informed approach and ensure that vulnerable citizens voices, wishes and rights are promoted within health and care.



Professor Keith Brown, Independent Chair of SANN

SANN commissioned a task and finish group to work together to produce a People in Position of Trust Principles Guidance paper. I would like to express my sincere thanks to Fran Pearson, Independent Safeguarding Adult Board (SAB) Chair and Walter Lloyd-Smith, SAB Manager for leading on this area of work with SANN subject matter expert colleagues to produce this guidance paper. It is both timely and informative to the sector. SANN exists as a community of practice and interest to serve its members in the promotion of the best quality safeguarding practice so that ultimately citizens can live lives free from abuse and exploitation.

Message from the Co-chairs of PiPoT Task and Finish Group:



Walter Lloyd-Smith and Fran Pearson co-chaired the Task and Finish work on behalf of SANN, the national networks of Safeguarding Adults' Board Business Managers, and of Safeguarding Adults' Board Chairs. We want to thank SANN member volunteers for their input and how pleased we were that this work reflected the advice and expertise of Local Government and Association of Directors of Adult Social Services (ADASS) colleagues. It was truly multi agency and stronger for it. As such this document aims to be the start of ongoing work for this important area of adult safeguarding work.

Definition of PiPoT

The Care Act (2014) defines **People in Positions of Trust (PiPoT)** as ‘people who work in paid or unpaid capacity, including celebrities and people undertaking charitable duties with adults with care and support needs’. See Statutory Guidance 14.120 to 14.132.

People can be considered to be in a ‘position of trust’:

- Where they are likely to have contact with adults at risk of abuse and harm (Care Act 2014) as part of their employment or voluntary work
- Where the role carries an expectation of trust
- Where the person in trust can exercise authority, power or control over an adult(s) at risk (as perceived by the adult at risk).

Positions of trust may include, but are not limited to any staff working on behalf of:

- Social care
- Health services
- Police and criminal justice
- Government officials
- Financial advisers
- Housing
- Education
- Voluntary Community Services (VCS)/Voluntary Community Service Enterprise (VCSE) organisations
- Sporting organisations and their governing bodies

It is a requirement of the Care Act 2014 Statutory Guidance that Safeguarding Adults Boards (SABs) should establish and agree a framework and process for any organisation to respond to allegations against “anyone who works, (in either a paid or an unpaid capacity,) with adults with care and support needs”.

Those overseeing a PiPoT process should ensure they consider if the individual may have worked or is working with children and liaise with Local Authority Designated Officer (LADO) colleagues appropriately. This should include agency as well as employed individuals.

Human Rights (1998) Principles & Links to PiPoT

The principles set out in the Human Rights Act must take account within this framework the following:

- **Article 6** – The right to a fair trial; this applies to both criminal and civil cases against them the person is presumed innocent until proven guilty according to the law and has certain guaranteed rights to defend themselves.
- **Article 7** – A person who claims that a public authority has acted or proposes to act in a way which is unlawful by section 6 (1) may a) bring proceedings against public authorities under this act in the appropriate court or tribunal or b) rely on the convention rights or rights concerned in any legal proceedings.
- **Article 8** – The right to respect for private and family life.

Main Principles of PiPoT

Timeliness

The local authority's relevant partners, as set out in section 6 (7) of the Care Act (2014), and those providing universal care and support services, should have clear policies in line with those from the safeguarding adults board for dealing with allegations against people who work, in either a paid or unpaid capacity, with adults with care and support needs. Such policies should make a clear distinction between an allegation, a concern about the quality of care or practice or a complaint. All organisations should have robust Human Resources policies and procedures in place that reflect the requirements of the Care Act (2014) relating to People in Positions of Trust.

It is important that timely assessment of risk and action is taken to remove/reduce the risk to adults who have care and support needs, to ensure appropriate action is taken to the Person in Position of Trust works with.

The sharing of information in a timely way is key to reduce the risk of missed opportunities to offer support and protection to adults with care and support needs

Those overseeing the PiPoT process should ensure that enough information is shared, as well as consider the urgency with which to share it.

A timely response applies whether the allegation or incident is current or historical/non-recent.

For information regarding to DBS referral guidance:

<https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs#legal-duty-to-refer-the-two-conditions-that-must-be-met>

Fairness

Fairness speaks to the natural justice principle that this process would need to follow. Natural justice is a term for giving people affected by a decision a fair role in the decision-making process and should aim to correct for bias in decision making. This means in some circumstances that a hearing is needed. Natural justice in the context of PiPoT means the decision maker needs to set out the reasons for their decisions, hearing the person who is deemed to be at risk and the person who is the source of the risk.

Fairness in practice is providing consistency within a defensible framework of natural justice that needs to balance the risk and concern for the person. The PiPoT process must consider each of the six principles of adult safeguarding and defensible decision making in regard to sharing information.

Fairness ensures that the information is limited to a justifiable, essential and small number of people within the Person in Position of Trust process.

Clarity of Purpose

Having a clear understanding of what comes within the remit of PiPoT and what does not, is central to the principles above. It is important to make a clear distinction between an allegation, a concern about the quality of care or practice or a complaint and use the appropriate approach accordingly.

Main Principles of PiPoT

Information Sharing

Decisions relating to PiPoT on sharing information must be justifiable and proportionate, based on the potential or actual harm to adults or children at risk and the rationale for decision-making must always be recorded.

Links to useful information sharing guidance:

HM Government: Information sharing guidance for practitioners and managers (2018):

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721581/Information_sharing_advice_practitioners_safeguarding_services.pdf

Social Care Institute for Excellence (2015, updated in 2019) Safeguarding Adults: Sharing Information – Seven Golden Rules:

<https://www.scie.org.uk/safeguarding/adults/practice/sharing-information>

UK Caldicott Guardian Council (Gov.uk):

<https://www.gov.uk/government/groups/uk-caldicott-guardian-council>

Confidentiality

The common law duty of confidentiality has been established over time through the Courts. It recognises that some information has a “quality of confidence”, which means that the individual or organisation that provided the information has an expectation that it will not be shared with or disclosed to others.

For information to have a quality of confidentiality it is generally accepted that:

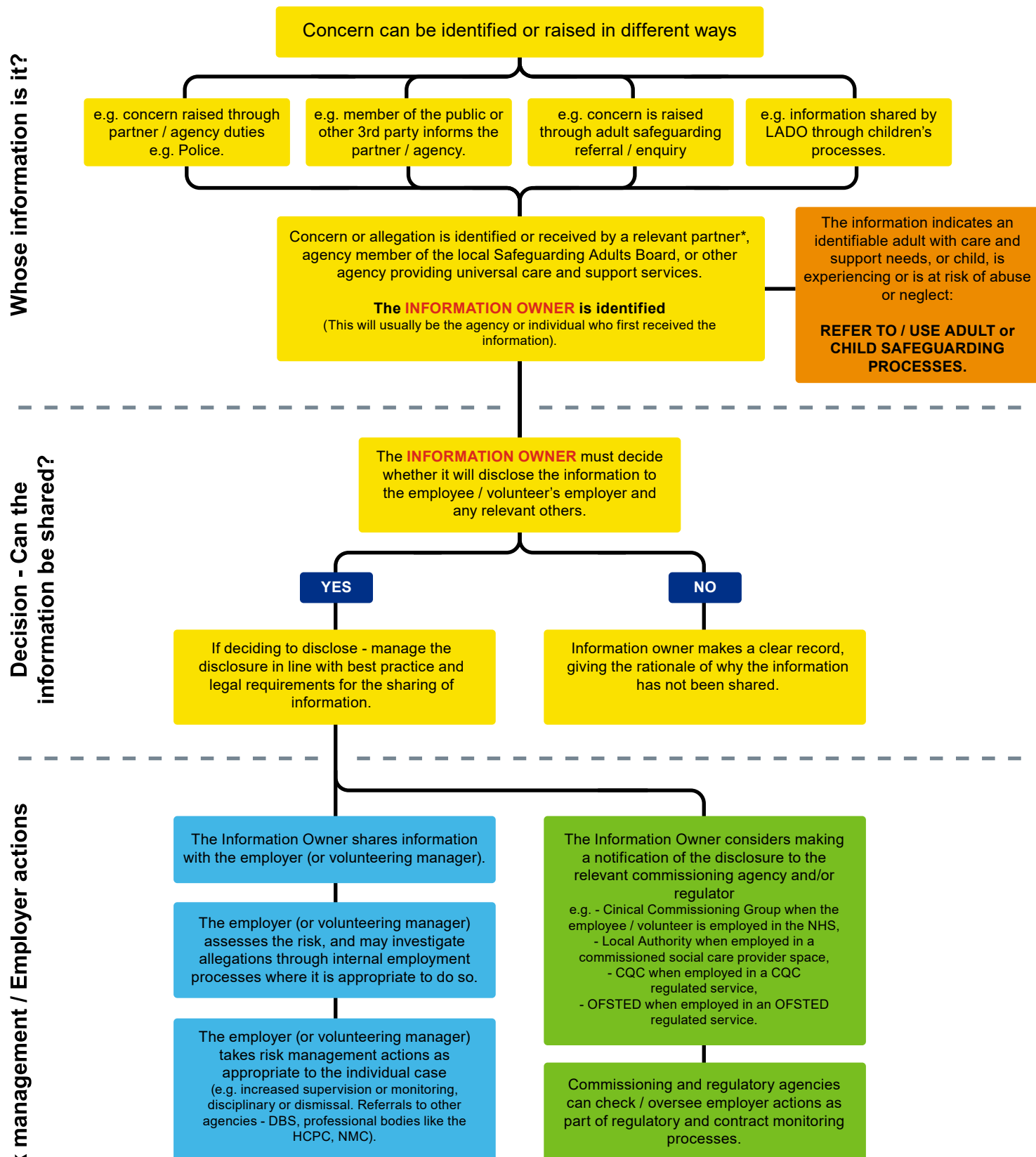
- it is not “trivial” in its nature,
- it is not in the public domain or easily available from another source,
- it has a degree of sensitivity,
- it has been communicated for a limited purpose and in circumstances where the individual or organisation is likely to assume an obligation of confidence. For example, information shared between a solicitor/client, health practitioner/patient.

In such circumstances the information should only be disclosed:

- with the permission of the provider of the information; or,
- if the confidentiality requirement is overridden by legislation; or,
- if an effective case ‘that it is the public interest’ can be made in the vital interests of the person.

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)



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