Adult Social Care

Making a Difference in the Right Way, Every Day

Position of Trust Procedure and Practice Guidance





Version	Date	Author Name	Rationale
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Review date	9		

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1. POSITION OF TRUST (ABOUT THIS DOCUMENT)

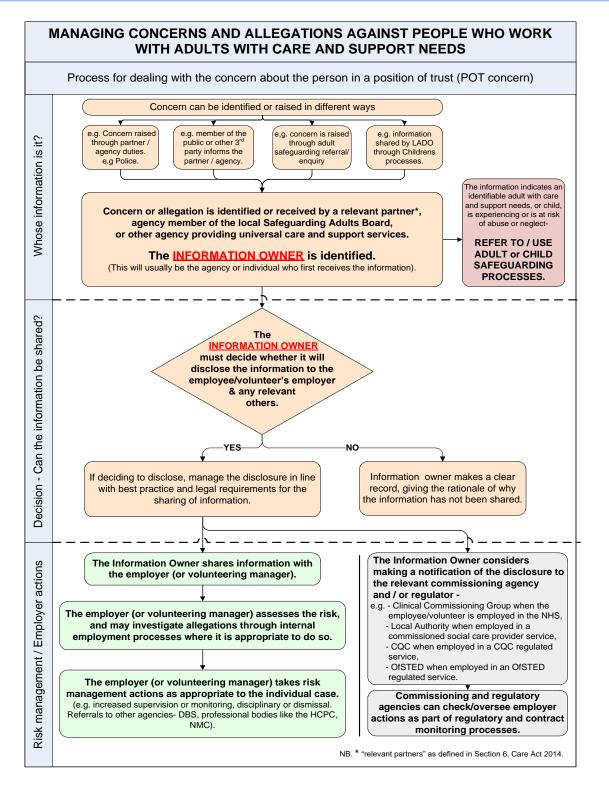
This practice guidance to manage a Position of Trust (PoT) enquiry has been developed by partners of Solihull Safeguarding Adults Board and must be used in conjunction with the West Midlands Adult Position of Trust Framework and the adult safeguarding: multi-agency policy and procedures for the protection of adults with care and support needs in the West Midlands.

West Midland Position of Trust Procedures can be accessed via the link; <u>West Midlands</u> <u>Safeguarding Procedures</u>

The policy does not cover complaints or concerns raised about the quality of the care or professional practice provided by the person in a position of trust. Concerns or complaints about quality of care or practice should be dealt with under the relevant agency's HR competence procedures or complaints processes.

Where a potential crime has occurred, please inform the Police immediately.

2. POSITION OF TRUST FLOWCHART



3. RAISING A POSITION OF TRUST CONCERN

A Position of Trust concern should be considered if:

- *a person who works with adults with care and support needs in a position of trust*, whether an employee, volunteer or student (paid or unpaid); *and*,
- where those concerns or allegations indicate the person in a position of trust poses a risk of harm to adults with care and support needs.

This is usually when it is clear that the person in a position of trust has:

- Behaved in a way that has harmed or may have harmed an adult with care and support needs or a child
- Possibly committed a criminal offence against, or related to, an adult with care and support needs or a child.
- Behaved in a way that indicates they may pose a risk to an adult with support needs or a child

It may not be a Position of Trust concern if:

- The subject of the allegation/concern cannot be considered to be an adult who works with adults with care and support need.
- There is no identifiable safeguarding adult or child concern.
- The concern is not about a named person and despite initial information gathering an individual cannot be identified.
- The concern is more appropriately described as a practice issue and should be dealt with by the employer or, contract and commissioning or the regulator.

Where the allegation or concern is historical, it is important to ascertain if the person is currently working with adults with care and support needs or children and if that is the case, to consider whether information should be shared with the current employer.

The allegation should be raised with the organisation's designated safeguarding lead and/or the Human Resources department.

Where a potential crime has occurred, please inform the Police immediately.

See Appendix 1 Adult Social Care referral form. Appendix 2 and 3 Supporting documents to help the referrer complete the referral.

4. WHO WILL LEAD THE POSITION OF TRUST ENQUIRY?

The **Information Owner** leads the POT enquiry and is often determined by who the person in a position of trust works with, for example if the person works with children, then the LADO is likely to be the information owner, if the person works with adults with care and support needs then it is likely to be the Safeguarding Team Manager. Where a crime has been committed then it is likely to be the Police who will be the information owner, however they may refer this duty to adults or children's services.

The Information owner is expected to:

- Assess whether any immediate risks are posed to adults with care and support needs or children
- Make or coordinate referrals to appropriate agencies such as adult or children safeguarding processes
- Consider whether the allegation or concern indicates a criminal offence has occurred or may occur. If so, the allegation or concern must be reported to the Police; early liaison with Police should take place to agree next steps and to avoid contamination of evidence; if a criminal investigation is required, this may take primacy over an agency or organisation's internal investigation
- Make the recommendation to share the information with the employer

For SMBC Adult Social Care the Information Owner must be the Safeguarding Team Manager, Team Manager or Head of Service if needed. (See Appendix 4 and 5)

The information owner will decide if a Position of Trust discussion is sufficient or if a further strategy meeting is required.

5. INVESTIGATING THE ALLEGATION

There are three types of investigation that support the Position of Trust Enquiry, and more than one may be applicable at any one time:

• There are safeguarding concerns for either adults with care and support needs or

children that require investigation under statutory legislation.

- There is a Police investigation regarding a possible criminal act.
- There is a need for an internal disciplinary investigation.

If there is no safeguarding or criminal investigation enquiry, then the concern should not proceed under the Position of Trust process.

Obtaining Consent

The default position is that the Person in a Position of Trust (PiPOT) should be made aware of the intention to raise the concern with their employer through the Position of Trust process and their consent should be sought to share that information. However if informing the person in a

Position of Trust could increase the risk of potential or actual harm to an adult with care and support needs or child, then the PiPOT should not be informed.

6. IMMEDIATE ACTIONS AND THE ENQUIRY

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

- Sharing the Position of Trust concern and purpose of the discussion/meeting.
- Information from information holder and attendees.
- Risk assessment.
- Are there any other parallel processes? What impact will they have?
- 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 Person in a Position of Trust.
- Feedback mechanisms (to whom, by whom).
- Agree next step and actions.

See Appendix 4 & 5 - Agenda and Minutes Templates

7. PROGRESS MONITORING AND TIMESCALES

It is important that Position of Trust concerns are managed in a timely way. Timescales wherever possible should be identified at the planning stage. 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.

7. EVALUATION AND CONCLUSION

It is important these cases have a robust evaluation and conclusion. This should include the following areas:

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

At the conclusion of a case in which an allegation is substantiated, the Chair should review the circumstances of the case to determine whether there are any improvements to be made to the setting's procedures or practice to help prevent similar events in the future.

See Appendix 6 & 7 Case Closure Agenda and Minutes Templates

8. RECORDING AND RETENTION OF INFORMATION

Record-keeping is an integral part of all safeguarding processes. Individuals with responsibility for the investigation and management of Position of Trust 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 should maintain records pertaining to allegations made in respect of an Adult with Care and Support Needs. Similarly, they should also maintain records of any concerns that relate to the welfare or safety of an Adult with Care and Support Needs. Employers must be aware of the requirements for handing personal data and be aware of their obligations of both confidentiality and disclosure. See local record retentions policy.

Records of every stage of the investigation process should be maintained, thus allowing for subsequent decisions to be made based on the most full, accurate and timely information available. These records permit the rationale behind key decisions to be traced, scrutinised and justified, where necessary. Records relating to Position of Trust allegations which have been found to be without substance must also be retained so as to build up any history.

Individuals are entitled to have access to their personal details whether they are stored electronically or manually. See SMBC Freedom of information policy for guidance.

A chronology or log of key events, decisions and actions taken should also be maintained to provide a ready overview of progress and will:

- 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.

All SMBC Adult Social Care Position of Trust records should be stored in the Sharepoint-Position of Trust folder- only Team Managers and Heads of Service within Adult Care who are involved with the POT enquiry will have access to this folder.

9. CASE STUDIES

CASE 1

Local Authority Staff member advised his line manager that he had recently been arrested for being intoxicated in a public space whilst being responsible for a child. The incident had been referred to Childrens services who had initiated child protection procedures. A child protection plan was initiated due to a number of concerns of neglect of a child.

Although the concerns were about a child in the persons care, the Childrens Social Worker referred to Adult Social Services under the Position of Trust processes as the person worked with adults with care and support needs.

The person was invited to discuss their issues as part of the POT planning process and advised that they had been to the GP to seek support for dependency on Alcohol and substance misuse.

However due to the nature of risk to others, a meeting with the Line Manager with HR and Safeguarding Team Manager to conduct Position of Trust risk assessment to ensure all reasonable steps had been taken to mitigate risk to those the person worked with and ensure that they could continue in his current role and responsibilities. This allowed him to address his dependency issues and continue to work safely.

CASE 2

A doctor employed as by the NHS is arrested by Police for Domestic Abuse towards his partner. The doctor works with a range of children and adults in their role, some of whom will have needs for care and support, some who may come to him seeking advice on Domestic Abuse.

The Police are the information owner and decide they do need to disclose the information to the NHS as the employer of the doctor. The Police inform the NHS Hospital Trust about the arrest for Domestic Abuse and notify the Care Quality Commission as regulator and the local Clinical Commissioning Group as the commissioner of the hospital trust.

The NHS Hospital Trust acts on the information and decides to report the concerns to the General Medical Council. Due to significant concerns for the safety of others they decided to suspend the doctor immediately. Their disciplinary process is placed on hold while the Police investigation progresses.

CASE 3

Safeguarding referral was received from Police who had detained a carer for questioning. Carer (B) was arrested for trying to open a bank account using false documentation. During the interview, (B) advised that she was employed as a live in carer and had left the person unattended.

Although the Police had the power to inform the employer directly, they referred to adult Social Care Due to the urgent need to ensure the safety of the person with care and support

needs. After a brief planning meeting and actions agreed. The Care agency were alerted to the situation.

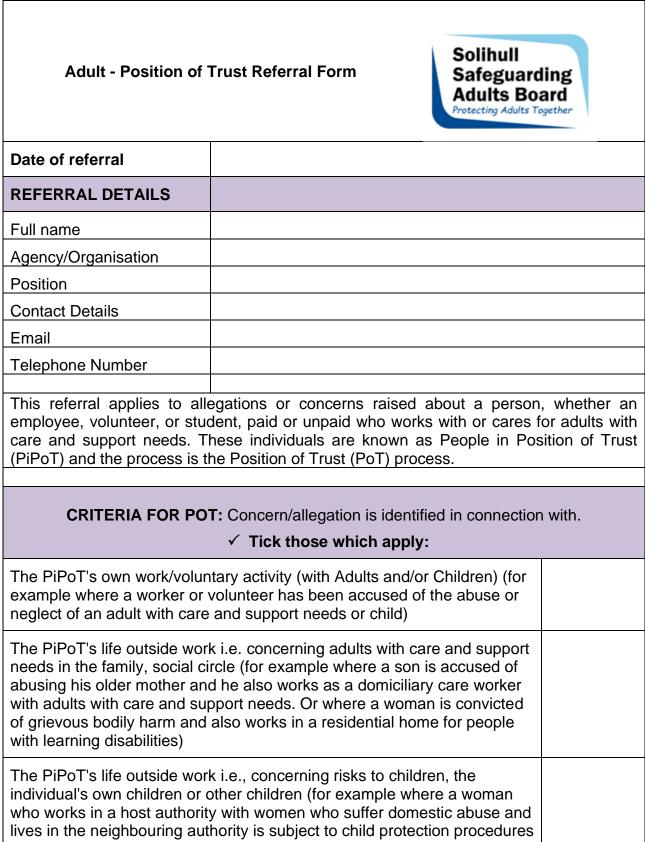
A safe and well visit was completed to the adult with care and support needs and emergency support arranged.

Social Worker leading the S42 Enquiry was later advised by the Care Agency that the worker had resigned immediately and therefore they had no information other than that provided by the Police.

Safeguarding Team Manager liaised with the Care agency and advised them of their responsibility not to cease employment if they felt the resignation was done to avoid DBS referral. The agency were able to proceed with a DBS referral and the Police and able provide an arrest number.

10. APPENDICES

Appendix 1	PoT Referral Form
Appendix 2	West Midlands Position of Trust Risk Balance Sheet
Appendix 3	Factors to consider in relation to PiPOT notifications
Appendix 4	Position of Trust Planning Meeting Agenda Template
Appendix 5	Position of Trust Planning Meeting Minutes Template
Appendix 6	Position of Trust Case Closure Agenda Template
Appendix 7	Position of Trust Case Closure Minutes Template



involving her own children due to domestic abuse by her husband)

AND THI	E PERSON HAS:		
Behaved in a way that has harmed or m care and support needs or a child.	ay have harmed an adult with		
Possibly committed a criminal offence against or related to an adult/s with care and support needs or a child.			
Behaved towards an adult with care and indicates they may pose a risk to adults			
May be subject to abuse themselves wh a service to adults with care and suppor			
PERSON IN POSI	TION OF TRUST DETAILS		
Personal details of the employee/volunte	eer/student being referred		
Full Name			
Date of Birth			
Address			
Contact details			
Gender			
Employment details:			
Including name, address and position, employment status etc			
Does the Person in Position of Trust know you are making this referral?			
If not why not? (Please note there may be some situations where the adult may be placed at greater risk if the PoT is informed immediately.			
INCIDENT/C	ONCERNS DETAILS		
Brief description of concerns			
Was the victim a child or adult with care and support needs?			
Are there adult or children's safeguarding procedures currently in process?			
Police Crime Reference Number (if applicable)			
ANY OTHER INFORMATION THAT I			

POSITION OF TRUST RISK BALANCE SHEET

This checklist can be used to determine if position of trust procedures need to be commenced.

QUESTION	Unlikely to support. position of Trust procedures	Likely to support position of Trust procedures
Has the individual:		
 behaved in a way that has harmed, or may have harmed, an adult with care & support needs. possibly committed a criminal offence against, or related to an adult with care & support needs or behaved towards an adult with care and support needs in a way that indicates they may pose a risk to adults with care and support needs 	Νο	Yes
Has the individual:	No	
 behaved in a way that has harmed, or may have harmed, a child possibly committed a criminal offence against, or related to a child; or Behaved towards an child in a way that indicates they may pose a risk to children. 	Child protection issues but does not work in a regulated activity with adults with care and support,	Child protection issues suggesting suitability to work with adults with care and support must be considered
Who is the information coming from - are they credible? Is the any incident/tension/friction between the parties?	After information gathering - source of information is questionable (e.g., malicious).	Source of information is credible and reliable. e.g., Police, several consistent witnesses.
	Or is an anonymous concern with insufficient information to warrant procedures.	
What is the severity of the allegation?	Insignificant	Severe

QUESTION	Unlikely to support. position of Trust procedures	Likely to support position of Trust procedures
What level of access to adults with care and support needs does the individual have?	Supervised	Unsupervised
How frequently does the individual have access to adults with care and support needs?	Never/Infrequent	Very frequent
Likelihood of reoccurrence.	None/Low	High
Does the incident relate to them as a victim or person alleged to be the source of risk?	Victim	Person alleged to be the source of risk
What is the truth of the allegation? The greater the conviction that the allegation is true the more pressing the need to disclose.	Weak or no evidence Concern	Strong evidence Fact
Why does the third party need to know (proportionality)? The more intense the need (legally or operationally) the more pressing the need to disclose.	No legal remit to share No operational need to know	There is a legal right to be told. Operational need to safeguarding adults at risk
What are the risks if the information is NOT shared?	No or few risks	Risks are significant.
How will the disclosure of information impact on the persons? <i>ARTICLE 8</i> <i>ECHR - Right to Private Life?</i>	Whilst everyone has the right to a private life these situations will require a case by case consideration of the facts and a balancing exercise of the individuals' rights against the wider public interest.	How will the disclosure of information impact on the persons ARTICLE 8 - ECHR - Right to Private Life?
Is there a qualified right to confidentiality or does the law enable or require the information to be shared.	No right to confidentiality and no public interest to share	Of public interest

FACTORS TO CONSIDER ON RELATION TO POT NOTIFICATIONS

The following table can help to decide if a Position of Trust concern should be raised - **The following applies to all cases where current** or historical concern, suspicion or allegation arises in connection with:/

- a) The PiPoT's own work/voluntary activity (Adults and Children)
- b) The PiPoT's life outside work i.e., concerning adults at risk in the family, social circle.
- c) 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	Cause for concern
1.	The person has behaved in a way that has harmed or may have harmed an Adult with care & support needs or a child?	No	Some harm or Potential harm	Serious harm or Potential harm
2.	Possibly committed criminal offence against or related to an adult/s with care and support needs or a child?	No	Not to an Adult with care & support needs but the offence is serious	Yes
3.	Otherwise behaved towards an adult/s with care and support needs in a way that indicates s/he is unsuitable to work with adult/s with care and support needs.	No	Yes	
4.	May be subject to abuse themselves which means their ability to provide a service to adults at risk must be reviewed	NO	YES	

POSITION OF TRUST AGENDA FOR PLANNING MEETING PLANNING DISCUSSION TEMPLATE

Chair			Date	
Start			Finish Time	
Venue			Minute Taker	
Perso			Employer and Role	
Positi	on of Trust			
		CONFIDENTIALIT	Y STATEMENT	
Those present are reminded that this meeting is strictly confidential. Discussions should not be shared outside of the meeting. All agencies should develop procedures to ensure that the minutes are retained in a confidential and appropriately restricted manner. The minutes will aim to reflect that all individuals who are discussed at the meetings should be treated fairly, with respect and without improper discrimination. All decisions undertaken at the meetings will be informed by a commitment to equal opportunities and effective practice issues in relation to race, gender, sexuality and disability. Minutes of this meeting could be shared as part of criminal, civil or disciplinary proceedings, or as part of investigations concerning whether an individual should be barred from working with children or adults with care and support needs.				
The m	inutes should	is felt essential, permissio I not be photocopied or sha estricted or confidential sec	ared without the agreem	
		PURPOSE OF T	HE MEETING	
This r	neeting is he	ld under the West Midlar	nds Position of Trust G	uidance (2017) to:
•	Share information.Agree actions to be taken, by whom and by when.Risk asses.			
		AGEN	IDA	
1.	Introduction	s and confidentiality statem	nent	
2.		e allegations (to include c legation relates)	current and previous all	egations, details to
3.	How this is r	elevant to their employme	nt with adults with care a	and support needs

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4.	Relevant information from attendees			
5.	Risk assessment To consider the safety of adult/s concerned To consider the safety of other adults or children 			
6.	Agree support to person in position	n of trust.		
7.	Agree feedback mechanism to the	referrer (who, what, when)	
8.	Planning the management of the a	Illegation		
	Action	By whom	By when	
	2			
	3 4			
	····			
9.	Consider strategy for media enquir	ries (if relevant)		
10	Next steps including details of further meetings			
11	AOB			

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POSITION OF TRUST PLANNING MEETING OR PLANNING DISCUSSION MINUTES TEMPLATE

Chair				Date	
Start ⁻	Time			Finish Time	
Venue)			Minute Taker	
Perso	on in Position of			Employer and	
Trust				Role	
Prese	nt				
Apolo					
	Attendees				
Detail					
allega					
	his is relevant to				
	mployment				
	feedback				
	anism to the				
	er (who , what,				
when)					
	ssessment				
	support to				
	n in position of				
trust	(II I				
	feedback				
	anism to the				
	er (who , what,				
when)					
	ing the				
	gement of the				
allega	uon				
	Actio	ns		By Whom	By When
1.	7,010				by whom
2.					
3.					
4.					
Strate	egy for media enq	uiries			
Next		tingo			
Next steps/further meetings					

This record is issued in the belief that it accurately reflects of the meeting. Please contact the chair within 7 working days of receipt to record any inaccuracies or omissions. This record is confidential and is not to be reproduced or copied to others without the chair's approval.

POSITION OF TRUST AGENDA FOR CASE CLOSURE MEETING TEMPLATE

Chair	Date	
Start Time	Finish Time	
Venue	Minute Taker	
Person in Position	Employer and Role	
of Trust		

CONFIDENTIALITY STATEMENT

Those present are reminded that this meeting is strictly confidential. Discussions should not be shared outside of the meeting. All agencies should develop procedures to ensure that the minutes are retained in a confidential and appropriately restricted manner. The minutes will aim to reflect that all individuals who are discussed at the meetings should be treated fairly, with respect and without improper discrimination. All decisions undertaken at the meetings will be informed by a commitment to equal opportunities and effective practice issues in relation to race, gender, sexuality and disability.

Minutes of this meeting could be shared as part of criminal, civil or disciplinary proceedings, or as part of investigations concerning whether an individual should be barred from working with children or adults with care and support needs.

If further disclosure is felt essential, permission must be sought from the Chair.

The minutes should not be photocopied or shared without the agreement of the Chair and must be kept in a restricted or confidential section of the agency files.

PURPOSE OF THE MEETING

This meeting is held under the West Midlands Position of Trust Framework (2017) to:

- Gain feedback from agreed actions from the PoT planning meeting or discussions
- Reach a formal determination of the case.
- Further risk assess.

AGENDA

1.	Introductions and confidentiality statement		
2.	Summary of original allegations		
3.	Feedback of agreed actions from planning meeting or discussion		
4.	Risk assessment		
	To consider the safety of adult/s concerned		
	To consider the safety of other adults or children		

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5.	Agree formal determination of the case					
6.	Agree actions (includes disciplinary action. Referral to regulator and professional bodies (e.g., HCPC, NMC), Disclosure & Barring Service, criminal prosecution, etc.)					
7.	Planning the management of the allegation					
	Action	By whom	By when			
	1.					
	3.					
	4.					
8.	Consider strategy for media enquiries (if relevant)					
9.	Agree feedback to person in position of trust					
10.	. Agree feedback mechanism to the referrer (who, what, when) and relevant others					
11.	AOB					

POSITION OF TRUST CASE CLOSURE MEETING MINUTES TEMPLATE

Chair		Date		
Start Time		Finish Time		
Venue		Minute Taker		
Person in Position of		Employer and		
Trust		Role		
Present				
Apologies				
Non - Attendees				
Summary of the				
allegations				
Feedback of agreed				
actions from planning				
meeting or discussion				
Risk Assessment				
Formal determination				
of the cases				
Planning the				
management of the				
allegation				
Actions from this meeting		By Whom	By When	
1. 2.				
3.				
<u> </u>				
4.				
Stratagy for modia and				
Strategy for media end				
Agree feedback to pers	son in position			
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Agree feedback mecha	nism to the			
referrer and relevant o				
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