

Shropshire Multi- Agency Mental Capacity Act Guidance

Document Control Sheet

Title:	Policy and procedures for managing allegation against staff and persons in a position of trust in respect of Children, Young People, and Adults (with care and support needs)		
Electronic File Name:			
Placement in Organisational Structure:	Directorate of Nursing, Quality and Safeguarding		
Consultation with stakeholders:	Minor amendments due to change in organisation so wide consultation is not required		
Equality Impact Assessment:	No		
Approval Level:	Executive Director of Nursing & Quality due to minor adjustment		
Dissemination Date:	April 2021	Implementation Date:	November 2022 (minor adjustments only)
Method of Dissemination:	Website		
Review Date			

Document Amendment History

Version No.	Date	Brief Description
1	January 2006	Policy written – D. Coan / P. Cooper
2	April 2019	Amendments due to child legislation – D. Coan / P. Cooper
3	April 2021	Minor amendment due to change to joint CCG; contact details amended and titles
4	November 2022	Minor amendments due to change from CCG to ICS

The formally approved version of this document is that held on the NHS Shropshire, Telford and Wrekin ICS website:

<https://www.shropshiretelfordandwrekin.ics.nhs.uk/>

Printed copies or those saved electronically must be checked to ensure they match the current online version.

Contents

1 – Introduction.....5

2 – Purpose.....5

3 – Responsibilities.....5

4 – Procedures / Processes.....6

5 – Related Documents.....11

6 – Dissemination.....12

7 – Advice and Training.....12

8 – Review and Compliance Monitoring.....13

1 Introduction

1.1 This policy relates to circumstances when an allegation is made that a child / young person or adult with care and support needs is suffering or likely to suffer harm caused by an employee / worker from Shropshire, Telford & Wrekin Integrated Care System (STWICS) or that an employee's behaviour indicates they are unsuitable to work with children or adults with care and support needs; where it is alleged that an employee of the ICS may have:

- Behaved in a way that has harmed or has the potential to harm a child or adult,

Or may have harmed a child or adult (this may be in work or their personal life); or

- Committed a criminal offence against or related to a child or adult; OR
- Behaved towards a child or adult in a way that indicates they are unsuitable to work with these groups of people (this may be in work or their personal life)

2 Purpose

2.1 The policy provides a framework to ensure appropriate actions are taken to manage safeguarding allegations against ICS staff or Person's in a Position of Trust (PiPoT) within the ICS, regardless of whether they are made in connection to duties with the ICS or if they fall outside of this such as in their private life. It applies to the ICS staff, this explicitly includes volunteers, agency staff, staff contracted to work in the ICS and others engaged in activity directly on behalf of the ICS (henceforth to be referred to as staff or Employee's).

2.2 This policy is a guidance document underpinned by various pieces of legislation that ensures that when an allegation related to the conduct of a member of staff is made, all staff and managers are aware of the procedures that should be followed.

2.3 This policy should be read in line with the ICS Human Resources advice and the Telford and Wrekin Safeguarding Partnership and Shropshire Safeguarding Community Partnership along with the NHS England's Framework for Managing Performance Concerns.

3 Responsibilities

3.1 This policy only applies to Staff working for the ICS and does not apply to allegations in respect of children and adults from an Independent Practitioner (GP, Dentist, Optometrist, Pharmacist, and Chiropodist) which will be managed

by the Responsible Officer for NHS England. NHS providers should have their own policies to adhere to.

4 Procedures / Processes

Allegations against Staff

4.1 The allegation or issue may arise either in the employee's / professionals work or private life. Examples include but not limited to situations where an employee has;

- Committed a criminal offence against or related to children, young people or adults with care and support needs.
- Failing to work collaboratively with social care agencies when issues about care of children, young people or adults with care and support needs for whom they have caring responsibilities are being investigated.
- Been subject to Multi-Agency Risk Assessment Conference (MARAC).
- Been subject to Multi-Agency Public Protection Arrangements (MAPPA).
- Behaved towards children, young people or adults with care and support needs, in a manner that indicates they are unsuitable to work with children, young people or adults with care and support needs.
- Allegations or concerns have been raised by another agency about the behaviour / conduct.
- Where an allegation or concern arises about a member of staff from their private life such as perpetration of domestic violence or where inadequate steps have been taken to protect a vulnerable person from the impact of violence or abuse.
- Noted to have concerns emanating from a Disclosure and Barring Service (DBS) Application.
- Where an allegation of abuse is made against someone closely associated with a member of staff e.g. partner, member of the family or other household member, the risk to children, young people or adults with care and support needs for whom the member of staff responsible must be assessed and acted upon in line with the ICS disciplinary procedures

4.2 The procedures also apply where there are concerns relating to inappropriate relationships between those who work with adults at risk or children or young people as outlined in the Sexual Offences Act 2003, namely;

- Inappropriate relationship with an adult at risk,
- Having a sexual relationship with a child under 18 if in a position of trust in respect of that child, even if consensual (section 16-19 Sexual Offences Act 2003).
- 'Grooming', i.e. meeting a child under 16 with intent to commit a relevant offence (section 15 Sexual Offences Act 2003).

- Other 'grooming' behaviour giving rise to concerns of a broader child protection.
 - Nature (e.g. inappropriate text / e-mail messages or images, gifts, socialising, use of social media etc.);
 - Possession of indecent images of children or use of the internet to access indecent images of children.
- 4.3 Please note, this is not an exhaustive list and advice must be sought [in this order] from [i] the Executive Director of Nursing and Quality or their Assistant Director Safeguarding. [ii] Designated Nurse Safeguarding Children and / or Designated Professional for Adult Safeguarding.

Consideration of an Allegation

- 4.4 There may be four strands in the consideration and management of an allegation:
- Police investigation of a possible criminal offence.
 - Enquiries and assessment by Children's / Adult Social Care about whether a child / young person or adult with care and support needs is at risk of abuse and / or in need of protection and / or in need of services.
 - Concern by a member of the public or other staff members.
 - Process of disciplinary investigation/action (including consideration of suspension).
- 4.5 Any concern that children, young people or vulnerable adults may be at risk of harm must be immediately reported.
- 4.6 The safety of the child, young people or adult with care and support needs is of paramount importance. Any concern that children, young people or vulnerable adults may be at risk of harm must be immediately reported.
- 4.7 All staff must be familiar with referral procedures to protect a vulnerable child / adult with care and support needs [PLEASE ALSO SEE SECTIONS 4 & 5 BELOW].
- 4.8 Shropshire Safeguarding Community Partnership and Telford & Wrekin Safeguarding Partnership have their own websites which set out their policies and procedures for safeguarding children / young people / adults with care and support needs of harm or abuse. This includes the process about how to make a referral. These are updated regularly and the websites are cited on pages 3 to 4.
- 4.9 Each Local Authority (LA) has a Local Authority Designated Officer (LADO) to act on their behalf in investigating allegations about members of staff or people in a position of trust regarding children; this role plays a critical part in terms of working in partnership with the NHS to manage risk and was cited as a vital safeguard in relation to Kate Lampard's work in the Savile Investigations 1 The LADO should be informed of all allegations.

- 4.10 For safeguarding allegations about adults with care and support needs involving staff or others in a position of trust, these should be shared with the Safeguarding Adult's Lead for the ICS. In addition to advice and support regarding the need to make a safeguarding Adults referral they will advise on ensuring that the LA Safeguarding Lead is sighted on the case and oversees the safeguarding enquiry on behalf of the ICS.

Process In hours

If there is reason to believe that there is an immediate concern for safety of a person or a crime is in progress then urgent action is needed. If this is the case then contact the Police via 999 (emergency). This would still require a retrospective safeguarding referral detailing the concern and the fact that the police have already been informed

- 4.11 If it is felt that the matter involves a criminal offence which does not require an immediate response then the Police should be contacted via 101. Contact should also be made with Shropshire Council's First Point of Contact Team; Children 0345 678 9021 (for children this needs to be followed up in writing within 24 hours) and adults 0345 678 9044; out of hours 0345 678 9040 or Telford Family Connect – Children 01952 385385 and for Adults (when prompted please select option 3); out of hours contact; 01952 676500.

¹Independent oversight of NHS and Department of Health investigations into matters relating Jimmy Savile

<https://www.gov.uk/government/publications/jimmy-savile-nhs-investigations-response-to-lessons-learnt-report>

- 4.12 In the first instance the concern must also be reported to the staff member's line manager, who should take advice from the ICS Executive Director of Nursing and Quality, Assistant Director Safeguarding or Designated Nurse in Safeguarding Children and / or Designated Professional Adult Safeguarding along with Human Resources (HR). This will involve agreement about how best to raise a child or adult safeguarding referral using the appropriate processes, providing that there has not been an urgent necessity to raise the matter more immediately.

Please note that the process of seeking advice should be done quickly and not cause a delay in raising the concern. The referral should be raised in most cases by the person with the concern or who has received the original information. The ICS's Designated Nurse for Safeguarding Children and/or Designated Professional Adult Safeguarding will liaise with the Police and or Local Authority with regard to any enquiries that may be needed. They will also support any internal investigation processes under the relevant HR

policy and liaise with the ICS appointed investigating officer (as applicable). When the issue concerns a GP, NHS England will be notified and will be part of the process.

- 4.13 All concerns about children must also be referred to the Shropshire LADO who can be contacted on 0345 678 9021 and the Telford & Wrekin LADO on 01952 385385.
- 4.14 The Accountable Officer or a deputy, for example Executive Director of Nursing and Quality, will be advised immediately and kept informed during the investigation and decision making process. Guidance will also be sort from HR regarding the employment issues that may arise.
- 4.15 Any action taken by the ICS to manage an allegation must not jeopardise any external investigations. This would include reporting the allegation against a healthcare or non-healthcare professional on the Strategic Executive Information System (STEIS) and this should be cleared with the LADO / LA Safeguarding Lead and the Police prior to submission (due to the nature or potential for alerting other would be offenders locally and nationally, depending on the issue).
- 4.16 It is essential that every effort must be made to maintain confidentiality and manage communications while an allegation is being investigated. Along with supporting the individual being investigated, appropriate arrangements will be made on a case by case basis regarding the specific support to be put in place. For example referral to occupational health, counselling services, and the best way to communicate and liaise with the member of staff whilst the investigation is in progress (please refer to the Disciplinary policy for more information).
- 4.17 Agreement should be reached with children's / adult's Social Care and the Police, if they are involved as to what information should be passed to the staff member concerned.
- 4.18 The ICS will seek agreement with HR regarding a dedicated member of staff being appointed to support this process.
- 4.19 The HR department will be contacted for advice regarding the action to be taken in relation to the employee. In conjunction with HR and the staff member's line manager and senior managers a decision is required whether suspension is appropriate during the period of investigation; or if the person can be moved safely to another position. HR will advise on the authority levels of managers and process needed in line with Human Resources policy and procedures. A decision to suspend or move the individual may, in some cases, mean the individual at this time cannot be told the nature of the concern and this needs to be agreed by HR and the Accountable Officer for the ICS, having consulted safeguarding colleagues. This is especially the case if the information being shared prematurely may jeopardise the investigation or put others at risk.
- 4.20 A safeguarding planning meeting may be convened with the appropriate personnel to decide how to manage the allegation and potential support etc. to the victims, along with any press release that may be needed.

- 4.21 The Line Manager / nominated individual at a senior level should be asked to provide appropriate support to the individual while the case is on-going and keep them regularly informed as agreed by the safeguarding meeting and other meetings. Where police investigations are on-going, any internal action could be delayed, pending police findings. Further engagement will be required with the police throughout this period, and support for the staff member considered.
- 4.22 The individual/s may have union representation and support provided by the Union (but this is not to be assumed), advice on what information can be given to the union and the individual must be clarified with the Police or Local Authority if they are leading the enquiry. It is important to bear in mind the requirements of maintaining confidentiality and observing the Human Rights Act and The Data Protection Act. The sharing of information must not 'contaminate' any Police or children's/adult's Social Care investigations that are on-going.
- 4.23 Also agreement needs to be obtained in relation to informing the person/s making the allegation on how to be kept informed of what is happening to their allegation. This is especially important if the allegation has been made by a child or adult with care and support needs to ensure appropriate support during the investigation.
- 4.24 There may be occasions dependent upon the nature of the concerns when further clarification is needed as to whether it is applicable to raise a safeguarding concern. For instance further fact finding is required to determine if the concerns warrant a safeguarding enquiry to be made. This will need consultation and advice with the appropriate safeguarding leads in the ICS and other external agencies.

Process Out of Hours

- 4.25 The Manager on call when notified of concern must ensure that any risk to the individual is addressed immediately i.e. are they in need of immediate protection or alternative supports to be urgently put in place. The Executive Officer will make a decision as to the risk to adults / children and possibility of immediate suspension from duty of the staff member in question and how to continue to provide services to an individual in the interim period until the allegations can be fully investigated in line with ICS procedure. This may well involve making a safeguarding referral to the LA via the Emergency Duty Team, or through contacting the Police.
- 4.26 The Manager will notify the ICS Executive Director of Nursing and Quality and this will ensure the in hour process guidance is reviewed and further implemented as required.

Procedure for Reporting/Managing Allegations; Non-directly employed staff

- 4.27 If a Safeguarding Allegation is made against a worker working for the ICS who is not an employee of the ICS, the allegation must also be shared with their employer or the body that engaged them at the earliest opportunity.
- 4.28 In such circumstances it will be necessary for the ICS to engage with the other relevant parties (outlined above) to decide how the allegation should be managed. These scenarios are likely to be complex and the ICS managers should take early advice from their local safeguarding and HR Leads. A case conference may be

required between the ICS and the other party / parties at the earliest opportunity, noting the responsibility to report issues to the Police and/or Social Care teams at the very first opportunity.

- 4.29 Assumptions should not be made that the other party has referred the matter to the Police or relevant other bodies – evidence needs to be promptly provided and if this is not forthcoming then the ICS Nominated Officer appointed to deal with the case should do so on behalf of the ICS and advise the other party accordingly.

Disclosure and Barring Service

- 4.30 As an employer of staff in a ‘regulated activity,’ the ICS also has a responsibility to refer concerns to the DBS in accordance with the Safeguarding Vulnerable Groups Act 2006. Managers must report concerns to their local HR team, who should seek advice from the ICS Safeguarding Team.

- 4.32 For specific guidance with regarding to the criteria for making a barring referral; please see the Government website:
<https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs>

General DBS advice can be found at:

<https://www.gov.uk/government/organisations/disclosure-and-barring-service>

- 4.33 A referral should be made even if the person in question has left the ICS before an investigation and / or disciplinary process has been completed.

Registration

- 4.34 If the employee is in a registered profession, then consideration should also be given as to whether they may have breached their professional code of practice. Consideration needs to be made about ensuring that matters are referred through to the relevant professional body and this will involve discussions between those leading on the investigation and other senior colleagues in the ICS as well as the respective professional bodies, who can offer general guidance. Initially this can be given without reference to the staff member’s name if necessary.

5 Related Documents

IMPORTANT NOTE:

THIS POLICY SHOULD BE READ IN CONJUNCTION WITH THE FOLLOWING ICS GUIDANCE AND POLICIES;

- Safeguarding Children Policy
- Safeguarding Adults Policy – further to the Adult Safeguarding: Multi-agency policy & procedures for the protection of adults with care & support needs in the West Midlands

- https://www.safeguardingwarwickshire.co.uk/images/downloads/West-Midlands-Policy-and-Procedure/WM_Adult_Safeguarding_PP_v20_Nov_2019.pdf
- Adults and Children's Safeguarding Supervision Policy
- Prevent Policy
- Freedom to Speak Up: Raising Concerns (Whistleblowing)
- Disciplinary Policy
- West Midlands Procedures for Child Safeguarding
<http://westmidlands.procedures.org.uk/>
- Adult Safeguarding: Multi-agency policy & procedures for the protection of adults with care & support needs in the West Midlands
<http://www.keepingadultssafeinshropshire.org.uk/media/1008/west-mids-adult-safeguarding-information.pdf>
- The West Midlands Position of Trust Framework
<http://www.keepingadultssafeinshropshire.org.uk/multi-agency-procedures/>
- Shropshire Safeguarding Community Partnership website:
<http://www.safeguardingshropshireschildren.org.uk/about-us/>
- Keeping Adults Safe in Shropshire:
<http://www.keepingadultssafeinshropshire.org.uk/>
- Telford Safeguarding Partnership
<https://www.telfordsafeguardingpartnership.org.uk/site/index.php>
- West Midlands Procedures Adults Safeguarding Hub
[West Midlands policies and procedures](#)
- West Midlands Adult Position of Trust framework : A framework and process for responding to allegations and concerns against people working with adults with care and support needs
<https://www.telfordsafeguardingpartnership.org.uk/downloads/file/35/adults-in-a-position-of-trust-framework>

6 Dissemination

These guidelines will be disseminated by the following methods:

- Directors – to disseminate within their areas
- Staff Communications
- Published to the Website
- Awareness raising by the Adult Safeguarding Leads

7 Advice and Training

Advice

Adult Safeguarding Lead; Deputy Designated Professional Adult Safeguarding Shropshire, Telford & Wrekin ICS

Training

<https://www.rcn.org.uk/professional-development/publications/pub-007069>

Training is in accordance with roles and responsibilities.

8 Review and Compliance Monitoring

Review

Minor review will take place annually; compliance will be monitored on an ongoing basis in accordance with the requirements of the policy.