

Croydon Safeguarding Adults Board

**Allegations against people working with adults with care and support
needs**

26/07/2024

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1 Introduction

1.1 The Care and Support statutory guidance, at paragraph 14.121, says

“Safeguarding Adult Boards need to establish and agree a framework and process for how allegations against people working with adults with care and support needs (for example, those in positions of trust) should be notified and responded to.”

1.2 This document sets out the framework and process agreed by Croydon SAB for this purpose.

1.3 While the focus of safeguarding adults work is to safeguard one or more identified adults with care and support needs, there are occasions when incidents are reported that do not involve a specific risk to a specific adult with care and support needs but indicate an overall risk that may be posed to adults with care and support needs by a person working with them.

1.4. The local authority’s relevant partners, as set out in section 6 (7) of the Care Act, and other agencies it must co-operate with, as described in paragraph 14.65 of the Care and Support statutory guidance, 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.

1.5. This document does not displace the policies of any other organisation. Its purpose is to support a consistent approach to these issues across Croydon. When those working for an organisation are responding to a specific issue of concern, they should follow their own organisation’s policies, procedures and guidance.

1.6 Where such concerns are raised about someone who works with adults with care and support needs, it will be necessary for the employer (or student body or voluntary organisation) to assess any potential risk to adults with care and support needs who use their services, and, if necessary, to take action to safeguard those adults.

- 1.7 Allegations against people who work with adults at risk must not be dealt with in isolation. Any corresponding action necessary to address the welfare of adults with care and support needs should be taken without delay and in a coordinated manner, to prevent the need for further safeguarding in future.
- 1.8 These procedures are to be used when allegations are made against people who work with adults in a paid or voluntary capacity, or there are issues of concern about reported harmful behaviour which cast doubt on the person's suitability to work with adults. This includes students who are working with adults, and personal assistants employed under direct payments.
- 1.9 These procedures are designed to ensure that if allegations of abuse are made, or there is any concern, appropriate and proportionate enquiries are made so that adults (wcsn) are protected and public confidence in services maintained.
- 1.10 For the purpose of this guidance, employees, volunteers or students (paid or unpaid) will be referred to as a 'person who works with adults with care and support needs', or 'person'. The term 'employer' will be used to refer to organisations that have a working relationship with the 'person who works with adults with care and support needs. This includes organisations that use volunteers, and education bodies responsible for students. It also includes adults with care and support needs who employ Personal Assistants (PAs).

2 Glossary

- 2.1 CSAB- Croydon Safeguarding Adults Board.
- 2.2 CQC - Care Quality Commission – Regulator of Health and Social Care Services.
- 2.3 DBS - Disclosure and Barring Service. This is the organisation which will deal with Criminal Record Checks and referrals about staff.
- 2.4 LADO - Local Authority Designated Officer- Person in Children's Services who receives concerns regarding a person who works with children.
- 2.5 Person – Someone who works with adults with care and support needs.
- 2.6 Safeguarding Adult Manager (SAM) - professional responsible for coordinating s42 Care Act adult safeguarding enquiries regarding allegations of abuse or neglect of an adult with care and support needs.

3 Scope

- 3.1 These procedures and guidance apply to all who work, in either a paid or unpaid capacity, with adults with care and support needs. It also applies to students and volunteers who are working with adults with care and support needs. Any allegation against them or concern about harmful behaviour towards adults and / or children, either in employment or in their personal life, must be carefully considered. These concerns may be current, or historical.
- 3.2 Examples of such concerns could include allegations that they have:
- behaved in a way that has harmed, or may have harmed an adult or child
 - possibly committed a criminal offence against, or related to, an adult or child
 - behaved towards an adult or child in a way that indicates they may pose a risk of harm to adults with care and support needs
- 3.3 If there is a specific concern about possible abuse or neglect of a specific adult with care and support needs, consideration should be given to making a referral of an adult safeguarding concern to Croydon Council Adult Social Care and Health. [Information about how to do this can be found on Croydon Council's website.](#)
- 3.4 This guidance does not apply if the allegations or concerns involve the Person's suitability to work with children. If the Person is working with children a referral must be made without delay to the Local Authority Designated Officer (LADO). [Information about how to do this can be found on Croydon Council's website.](#)
- 3.5 This framework does not cover complaints or concerns raised about the quality of the care or professional practice provided by a person working with adults with care and support needs. Concerns or complaints about quality of care or practice should be dealt with under the relevant processes, such as a complaints process or a Human Resources process. If you are unsure of which action to take, you should seek advice from the safeguarding lead within your organisation.

4 Roles and Responsibilities

The person or organisation that has the information giving rise to a concern

- 4.1 Any concerns about the behaviour or risk posed by a person in a position of trust should be carefully considered to determine whether that information should be

shared with the person's employers, a regulatory body or a professional registration body, to enable them to conduct an effective risk assessment.

- 4.2 Employers are individually responsible for ensuring that information relating to allegations against people working with adults with care and support needs are shared and escalated outside of their organisation in circumstances where this is required. Such sharing of information must be lawful, proportionate and accurate
- 4.2 Where there are concerns about abuse and neglect of an adult at risk, a safeguarding concern should also be raised with the local authority.

The employer of the person

- 4.4 Individual organisations, including student bodies and voluntary organisations, are responsible for responding to allegations regarding any person working for them who is working with adults with care and support needs, and for undertaking all necessary action in line with their internal management process.
- 4.5 This process should include:
- risk assessment and responding to immediate risk
 - consideration of the welfare of their staff member
 - consideration of how any potential risk will be managed whilst it is being investigated.
 - consideration of interface with other processes. These might include referral to a LADO, a referral of an adult or and children's safeguarding concern, criminal investigations, or internal HR processes).

The police

Where a police force become aware of an allegation against a person working with adults with care and support needs, they will consider whether there are grounds for them to share that information with the person's employer. [The College of Policing has guidance for police forces on making disclosures under common law powers.](#)

5 Information Sharing and Confidentiality

- 5.1 The Care and Support statutory guidance says, "*Decisions 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 should always be recorded.*" (Care and Support statutory guidance, paragraph 14.131)

- 5.2 The Croydon Safeguarding Adults Board Data Sharing Agreement should be referred to when making decisions to share information. Additional legal advice may occasionally be required.
- 5.3 Information relating to an allegation against a person working with adults with care and support needs should only be shared:
- where relevant and necessary, not simply all the information held.
 - with the relevant people who needs some or all the information
 - when there is a specific need for the information to be shared at that time
- 5.4 Public bodies or organisations commissioned by them should consider whether they have a lawful basis for sharing information on the basis of undertaking a public task. Other agencies not fulfilling public tasks should consider whether there is a lawful basis for sharing information on the grounds of legitimate interests.
- 5.5 In deciding whether sharing the information is justified and necessary, a professional judgement will be required based upon balancing the safety and needs of those potentially at risk, and the rights of the person working with adults with care and support needs.
- 5.6 A fair balance must be struck between the rights of the person working with adults with care and support needs to privacy and the interests of those at risk of abuse and neglect. This requires a careful assessment of the severity and consequences of the interference in the life of a person in a position of trust and the risk posed to others.
- 5.7 The risks to adults with care and support needs must be sufficient to justify interfering with the right to privacy of the person working with adults with care and support needs. The consideration is therefore one of proportionality. There should be a need for the disclosure to protect adults with care and support needs.
- 5.8 Any information shared should be limited to that needed to convey the nature of the risk. It should be made very clear whether the information is an allegation or a substantiated concern, and any current process in relation to its investigation.
- 5.9 Unless it puts an adult with care and support needs or a child in danger, the person should be informed that the allegation against them will be shared with their employer. The grounds for not doing so would be that:

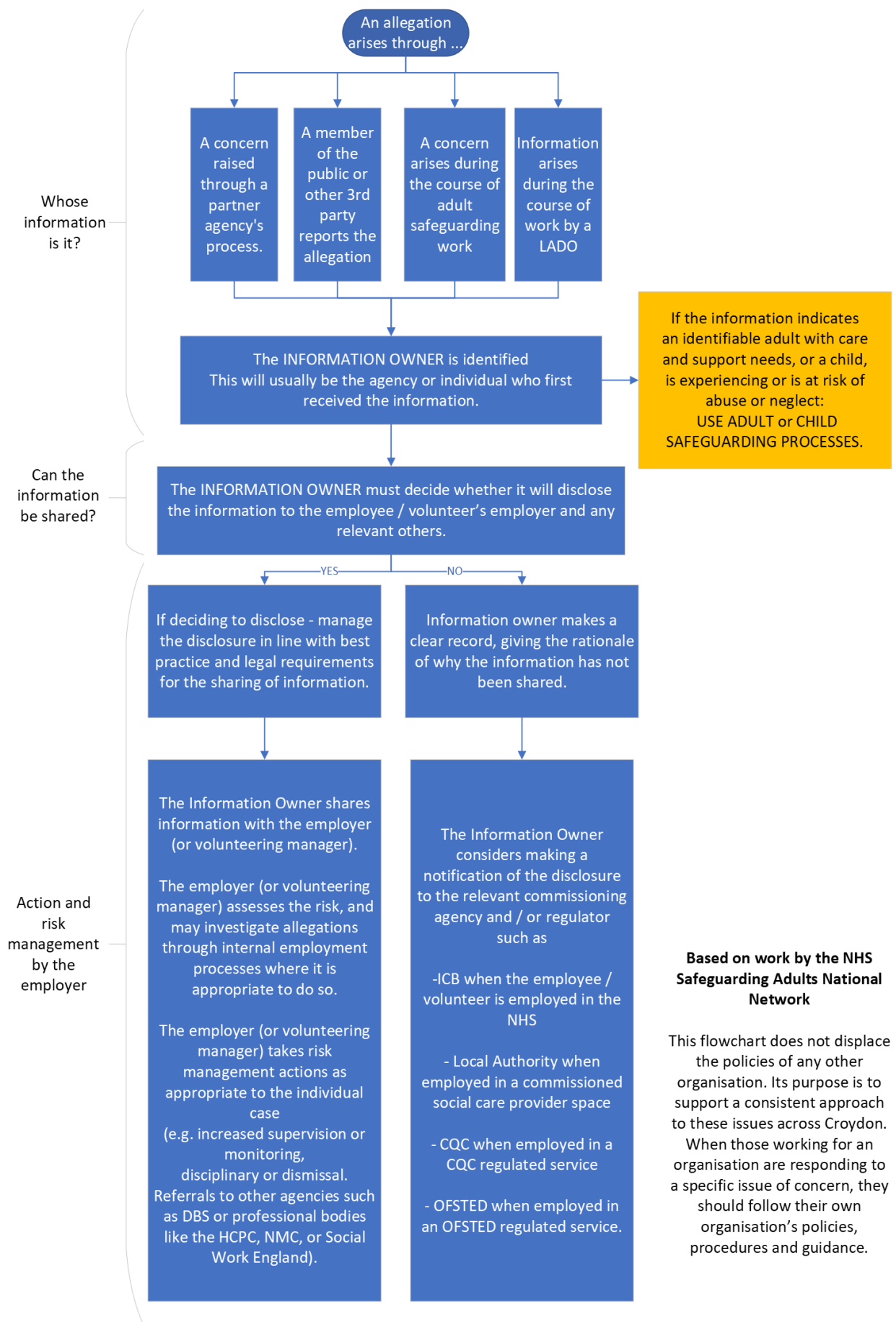
- Telling the person would put an adult with care and support needs or a child in danger
- There is a risk the Person will self-harm
- There is a risk to the professional who is telling the person they are making a disclosure.

If it is decided not to tell the person about the disclosure, details of this decision and the reasons for it must be recorded.

6 Support for the person subject to an allegation

- 6.1 When a concern arises about someone who works with adults with care and support needs, the experience is likely to be very stressful for them. The employer should have due regard for the person's welfare.
- 6.2 This may include measures such as:
- support for the person to understand the procedures being followed
 - updates on developments
 - the opportunity to respond to allegations/concerns
 - support to raise questions or concerns about their circumstances.
- 6.3 There may be limitations on the amount of information that can be shared at a particular time in order not to prejudice any enquiry or investigation or place any adult with care and support needs at risk. There may also be occasions where there is a need to agree changes to the person's working arrangements or to the support provided.

7 Flowchart: Managing allegations against people who work with adults with care and support needs



Appendix 1: Risk assessment by the employer / student body risk management arrangements

The following outlines considerations in responding to an assessed risk. This summary of issues is not exhaustive and other responses may be relevant depending on the circumstances of each case.

Review of working arrangements

The possible risk of harm posed by the person to adults with care and support needs will need to be assessed and managed effectively, taking into account the nature and seriousness of any allegation, harm to any service users, and the risk of repeated incidents/ongoing behaviour.

In some cases, the employer will need to consider suspending an employee.

Suspension should not be viewed as a form of sanction. It is a neutral act and does not imply guilt. People must not be suspended automatically or without careful thought.

Employers must consider carefully whether the circumstances of a case warrant a person being suspended until the allegation is resolved. If the person is suspended, the employer must make arrangements to keep the individual informed about developments in the workplace.

Suspension should be considered in any case where there is cause to suspect:

- adults with care and support needs are at further risk of abuse or neglect, or
- the allegation warrants investigation by the Police, or
- is so serious that it might be grounds for dismissal, or
- the presence of the person in the workplace will interfere with the enquiry/investigation process.

Suspension may not be required where there are appropriate alternatives. This may sometimes include changes to working arrangements, such as not working in a service user contact role whilst the allegations are being investigated. The potential for alternative working arrangements will be determined by the nature of the organisation's structure and services. Advice should be sought from HR advisors and/or employment lawyers who may assist with finding alternative arrangements to suspension. The employer cannot be required to suspend any employee by a local authority, police or other agency.

Where a person is suspended, they are entitled to know in *broad terms* the reasons for the suspension. Whilst an individual has the right to respond to allegations or concerns raised, this must be at an appropriate time and care should be taken to ensure information is not shared at the point of suspension that may prejudice a subsequent enquiry or investigation or place any adult with care and support needs or other person at additional risk.

Where, on conclusion of a case, it is decided that a person who has been suspended can return to work this process should be carefully managed. The employer should consider what help and support might be appropriate, such as a phased return to work or provision of a mentor, and how best to manage the employee contact with the adult concerned, if still in the workplace.

Disciplinary hearing processes and responsibilities

The need for, and timing of, a disciplinary hearing is a decision for the relevant employer and will depend on the specific circumstances of the situation. Consideration should be given to whether the decisions or findings within any police or adult safeguarding process may potentially affect decision making within the disciplinary process, and vice versa. These decisions will need to be reached on a case-by-case basis.

Disciplinary hearings will be focused on the conduct of the individual as an employee. Decisions reached should, however, also give due consideration to the organisation's responsibility to safeguard adults with care and support needs.

Employers who are also service providers or service commissioners have not only a duty to adults with care and support needs but also a responsibility to take action in relation to the employee when allegations of abuse are made against him or her. Employers should ensure that their disciplinary procedures are compatible with the responsibility to protect adults with care and support needs from the risk of abuse or neglect.

For these reasons, it may be necessary for the disciplinary hearing process to:

- develop an understanding of any safeguarding issues that have emerged during any enquiry or investigation
- reassure itself that it is acting proportionately to the risk of abuse occurring or reoccurring
- understand the potential impact of disciplinary decisions on adults with care and support needs who use the service

- assure itself that staff are safe to work with adults with care and support needs, and where needed detail the measures required to provide this reassurance
- consider the need to seek advice from their organisation's adult safeguarding lead in relation to the impact of their decisions on any adults with care and support needs
- understand and act upon responsibilities to refer individuals to professional regulatory bodies and to the Disclosure and Barring Scheme, where appropriate.

Resignations

An employee has the right to resign, giving contractual notice at any time during disciplinary proceedings. The management in consultation with Human Resources needs to consider how to respond if the employee wishes to resign with 'immediate effect'. It may be more appropriate to require the contractual notice period to be fulfilled. This will ensure that there is an obligation on the employee to co-operate with employment procedures. Employees may still fail to attend meetings. Every effort should be made to define risks to ensure adults with care and support needs are safeguarded in all cases even if the employee refuses to participate in an internal investigation, having been given a full opportunity to answer the allegation and make representations.

If the employee's period of notice expires before the disciplinary process is complete the employee should continue to be invited to participate at each stage of the process. It may not be possible to apply any disciplinary sanctions if an employee's period of notice expires before the process is complete. Nevertheless, where the disciplinary process concludes that 'there is a case to answer' a disciplinary hearing should take place. If the (ex-) employee fails to attend the chair should continue with the format of a disciplinary hearing and reach a conclusion to determine whether or not the allegations are proven. If some or all allegations are proven the chair of the hearing should record the action that would have been taken if the employee had remained in employment up to the date of the hearing. The (ex-) employee must always be notified in writing of the outcome of the disciplinary hearing.

Managers must not negotiate any form of 'compromise agreements' to release the employee without matters being concluded. Regardless of the circumstances of an employee leaving their employment, the employer will have an obligation to consider requests for references. References must only be given by managers with the authority to provide an accurate reference and managers are advised to seek advice from HR on

receipt of reference requests. Consideration must be given as to whether a referral to the Disclosure and Barring Service is warranted (www.homeoffice.gov.uk/dbs) when any disciplinary process has been concluded. Referral can still take place after the resignation of an employee from a service. It is an offence to fail to make a referral to the DBS without good reason.

Employment records and adult safeguarding concerns should not be deleted after a time period where the employee works in a role caring for adults with care and support needs as future concerns may arise and past historic information will need to be available to make adequate risk assessments.

Appendix 2: Questions to assist in decision making regarding disclosure to the employer

The overall picture must be considered in decision making and decisions must be made on a case-by-case basis. The list below is not exhaustive.

- Does the Person work in a setting where there are or are likely to be adults with care and support needs
- What type of access to adults with care and support needs does the Person have?
- How frequently does the Person have access to adults with care and support needs?

Examples:

The Person may work for a health or social care provider but be based in a different location from service provision, in a post which has no contact with adults with care and support needs. The Person should be encouraged to disclose to their employer, but disclosure to the employer cannot be made under information sharing under this framework as the Person has no contact with adults with care and support needs.

Alternatively, the Person may have regular contact with adults with care and support needs, not necessarily in a caring role but in the role of cleaner, cook, hairdresser, caretaker or gardener. If the allegation involves violence, sexual assault or financial or sexual exploitation, there is cause to be concerned that the person may use this position to harm adults with care and support needs. Disclosure to the employer must be considered.

The Person may be working directly with adults with care and support needs in an unsupervised setting. Any concern could prompt disclosure as the circumstances in which the person works may increase the risk of harm to an adult with care and support needs.

What is the severity of the allegation?

Under most employers' codes of conduct a person working with adults with care and support needs should inform their employer of arrests or convictions for criminal offences. The person should be encouraged to do so as soon as possible. However, some arrests or convictions, including crimes of domestic abuse, physical and / or sexual violence may need to be disclosed immediately to the employer to minimise the possibility of further harm.

What would the impact be on an adult with care and support needs if harm were to occur?

The individual or group worked with and their specific vulnerabilities to harm need to be a factor in any decision. Assumptions must not be made. For example, a person who has perpetrated a sexual assault on a young person may well assault older people too.

Likelihood of reoccurrence

Does the information gathered appear to indicate a one off, and minor event? For example, a police report of rowdy behaviour at the address of a person during a late-night birthday party, with no other incidents recorded.

Use of alcohol or drugs may be reported by the police or other professionals. Whilst there may have been no criminal convictions there may be a pattern of behaviour which will begin to impact on the person's place of work and adults with care and support needs. For example, if the person concerned is an unsupervised nurse who works a night shift the need to disclose to the employer will be urgent.

Does the incident relate to them as a victim or perpetrator?

Reports are sometimes made which concern a person who is the victim, often of domestic violence. If other agencies, including the police, are supporting the person they will need to work with the employer to assess whether the perpetrator of abuse could pose any threat to the person at work as well as supporting the person to disclose to his / her employer the need for support at work.

Appendix 3: Professional Regulatory Bodies

If the person is registered with a professional regulatory body and there are concerns about their fitness to practise, the employer / volunteer manager must refer to the professional regulatory body's guidance and consider the need to raise the concern with that professional body.

The main function of each professional regulatory body is to protect the public. To do this they will:

- set **standards** for registrants' education and training, professional skills, conduct, performance and ethics;
- keep a **register** of professionals who meet those standards;
- **take action when professionals** on the Register do not meet those standards; and
- **approve programmes** which professionals must complete to register with them.

A professional regulatory body has a range of actions that can be imposed in cases where professionals do not meet their standards. Typically, they can decide to take actions such as:

- make an interim suspension order while an enquiry is being undertaken
- impose a caution order. The 'caution' will appear against the registrant's name on the register;
- impose a 'conditions of practice order' which is a restriction or conditions on the registrant's registration;
- suspend registration, this can be for up to one year; or
- make a 'striking-off order', removing the registrant's name from the register.

The principal professional regulatory bodies within health and social care are:

- Social Work England (www.socialworkengland.org.uk)
- Nursing and Midwifery Council (www.nmc-uk.org)
- Health and Care Professions Council (www.hcpc-uk.org)
- General Medical Council (www.gmc-uk.org)
- General Optical Society (www.optical.org)
- General Dental Society (www.gdc-uk.org)
- General Chiropractic Council (www.gcc-uk.org)

- Royal Pharmaceutical Society of Great Britain (www.rpsgb.org.uk)
- General Osteopathic Council (www.osteopathy.org.uk)

Notification to a professional regulatory body is the responsibility of the employer.

Where there is a relevant s42 Care Act adult safeguarding enquiry underway and this action has been agreed with the person acting as the Safeguarding Adult Manager (SAM) on behalf of the local authority, confirmation should be provided to whoever the SAM has nominated as the contact person when that the action has been completed. The SAM may also make, or arrange to be made, referrals by the local authority where the relevant criteria for those has been met.

Appendix 4: Disclosure and Barring Service (DBS)

The Disclosure and Barring Service (DBS) can bar a person unsuitable to work with vulnerable groups, including children, from working in regulated activity in the future. If a person is barred it becomes an offence for an organisation to knowingly engage that person in regulated activity.

Employers and managers of people working in 'regulated activity' have a legal duty to make referrals to the Disclosure and Barring Service in certain circumstances. The local authority also has a power to make a referral and should do where it is necessary to ensure the appropriate referral has been made.

Regulated activity is work – both paid and unpaid – with children or adults (wcsn) that meets certain criteria.

In relation to adults with care and support needs, regulated activity in broad terms includes activities involved in:

- providing health care
- providing personal care
- providing social work
- providing assistance with cash, bills and/or shopping
- providing assistance in the conduct of personal affairs
- conveying the person

There is a duty placed on regulated activity providers and personnel suppliers to make a DBS referral in circumstances where they have permanently removed a person from 'regulated activity' through dismissal or permanent transfer (or would have if the person had not left, resigned, retired or been made redundant); because the person has:

- Been cautioned or convicted for a relevant offence; or
- Engaged in relevant conduct in relation to children and / or adults with care and support needs [i.e. an action or inaction (neglect) that has harmed a child or adult with care and support needs or put them at risk of harm]; or

- Satisfied the Harm Test in relation to children and / or adults with care and support needs [i.e. there has been no relevant conduct (i.e. no action or inaction) however a risk of harm to a child or adults with care and support needs still exists].

The local authority has a power to make a referral where the person is employed in another organisation, and that organisation has failed to make a referral when appropriate to do so.

The full up-to-date guidance and definitions produced by the Disclosure and Barring Service must be referred to when deciding whether to make referral to them.