

HR10

Managing Allegations of Behaviour Indicating Unsuitability to Work with Children and Adults with Care and Support Needs

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1.0 Policy Statement (Purpose / Objectives of the policy)

- 1.1 The Royal Wolverhampton NHS Trust (RWT) is required to protect from harm and abuse all children and adults who have care and support needs (referred to as Vulnerable Clients throughout this policy). The safety and welfare of these Vulnerable Clients must be the paramount consideration.
- 1.2 Children, young people and adults who have care and support needs can be subjected to abuse by those who work with them in any setting. All allegations of abuse or maltreatment of these Vulnerable Clients made against any member of RWT staff (including clinical practitioners, staff members, students or volunteers) must be taken seriously and treated in accordance with this policy.
- 1.3 In the event of any allegations of this nature, RWT will appoint a named Senior Nominated Officer (SNO) who will take responsibility for the necessary enquiries in the Trust and inter-agency contexts. These enquiries will identify any false or unfounded allegations to be identified or to confirm the allegations and implement appropriate actions. In adhering to this Policy, all applicable aspects of the Conflicts of Interest Policy must be considered and addressed. In the case of any inconsistency, the Conflicts of Interest Policy is to be considered the primary and overriding Policy.

2.0 Definitions

Abuse: Violation of an individual's human and civil rights by any other person or persons. It may consist of one or repeated acts. It may be physical, verbal or psychological. It may be an act of neglect or an omission to act. It may occur when a vulnerable person is persuaded to enter into a financial or sexual transaction to which he or she has not consented or cannot consent. Abuse can occur in any relationship and may result in significant harm to, or exploitation of the person subjected to it.

Adult with care and support needs: For the purpose of this policy, this is an adult whose care and support needs exceed the threshold for eligibility for safeguarding services under The Care Act 2014 and statutory guidance. Care and support is a mixture of practical, financial and emotional support for adults who need extra help to manage their lives and be independent - including older people, people with a disability or long-term illness, people with mental health problems and carers.

Child: For the purposes of this policy a child is an individual under the age of 18 years or under 21 years if in local authority care or under 25 years in some circumstances if the person has had lifelong disability (The Children Act 1989). In some documents, a child is defined as being younger than 16 years and a young person as being 16 or 17 years old.

Duty of Care: The duty which rests upon an individual or organisation to ensure that all reasonable steps are taken to ensure the safety of a child or young person or adults with need for support and services involved in any activity or interaction for which that individual or organisation is responsible. Any person in charge of, or working with children and young people or adults with need for support and services in any capacity are considered both legally and morally, to owe them a duty of care.

Harm: Ill treatment or impairment of health and development.

Local Authority Designated Officer (LADO): Every local authority has a statutory responsibility to have a Local Authority Designated Officer (LADO) who is responsible for co-ordinating the response to concerns that an adult who works with children/adults with care and support needs may have caused them or could cause them harm.

Position of Trust (POT): This is a legal term that refers to certain roles and settings where an adult has regular and direct contact with children or adults with care and support needs Examples include:

- Nurses
- Midwives
- Social Workers
- Doctors
- Allied Health Professionals
- Health Care Assistants
- Volunteers

This list is not exhaustive.

It is illegal for someone in a POT to engage in sexual activity with a child in their care, even if that child is over the age of consent (16 years).

Safeguarding: Promoting health and wellbeing and protecting from harm.

Vulnerable Client: A child, young person or adult who has care and support needs.

Wolverhampton Safeguarding Together (previously known as Wolverhampton Safeguarding Board): A multi-agency group to coordinate what is done by everyone to safeguard and promote the welfare of children and adults with care and support needs in the area.

3.0 Accountabilities

- 3.1 **The Chief Executive** has overall responsibility for ensuring that the Trust complies fully with its duties with regard to safeguarding adults and children and for ensuring that all allegations and serious incidents are appropriately investigated and acted upon. Assurance of this will be via the Trust Safeguarding Group.
- 3.2 **The Group Chief People Officer**, will undertake the role of Named Senior Nominated Officer (SNO). He or she also has the responsibilities listed below.
 - 3.2.1 To ensure that the Trust has effective procedures for managing allegations of behaviour that indicate unsuitability to work with Vulnerable Clients in line with the [Wolverhampton Safeguarding Together Policies and Procedures](#).
 - 3.2.2 Informing the Head of Safeguarding as soon as possible if there are allegations made against staff relating to the safety and welfare of Vulnerable Clients.
 - 3.2.3 Ensuring that all relevant Trust Staff are aware of and implement the procedures in this Policy.

- 3.2.4 Ensuring that the Trust has a system in place to review cases and identify and implement any changes to improve procedures and practices.
- 3.2.5 Ensuring that the contact details for the LADO personnel are and accessible to all employees (see [Contact details Wolverhampton LADO](#)).
- 3.2.6 Ensuring that effective reporting and recording arrangements are in place in the Trust.
- 3.2.7 Advising on the appropriateness and content of a referral to the DBS and, or professional body or regulator.
- 3.2.8 Delegating the responsibility for implementing the policy to appropriate managers to undertake the following:
- Obtain written details of the concern or allegation signed and dated by the staff member who received the information;
 - Record the times, dates and locations of the alleged incident(s) and the names of any potential witnesses;
 - Trust managers to seek advice from the Human Resources (HR) Department on any decisions regarding exclusion or redeployment of a member of staff following an allegation.
 - Record any discussions with third parties and any decisions (with the rationale for any decisions) about the Vulnerable Client and, or the member of staff;
 - Ensure (if appropriate) that a safeguarding referral is made in line with the Wolverhampton Safeguarding Together Policies, and, if appropriate, to the Police;
 - Report the allegation to the LADO within one working day ([LADO referral Form](#));
 - Provide support for staff facing allegations as per Wolverhampton Safeguarding Together Policies ([Support for Staff Facing Allegations](#)).
- 3.3 Head of Safeguarding** will provide professional guidance and support on the presenting circumstances; will engage in strategy meetings and inter-agency discussions as relevant; will ensure that all safeguarding concerns are referred to the MASH (MASH@wolverhampton.gov.uk) and will complete a [LADO Referral Form](#) if not previously done.
- 3.4 Directors and Divisional and Directorate Management Teams** will ensure directorates deliver safe and effective services; will implement this policy and take appropriate action should the need arise; will ensure that all staff in directorates comply with this policy; and provide appropriate information, instruction and training as needed. They will act in accordance with 3.2.9.
- 3.5 All RWT Employees** have a duty to safeguard and promote the welfare of Vulnerable Clients and will:
- Contact their Line Manager and, or the Safeguarding team to discuss any concerns or allegations made about against staff in relation to Vulnerable Clients;
 - Bring matters of concern to the attention of senior management and, or relevant external agencies as per HR16 Concerns at Work (Freedom to Speak Up) Policy;
 - Contact the Head of Safeguarding if they believe a reported allegation or concern is not being dealt with appropriately.

- 3.6 **The Local Authority Designated Officer** will be involved in the management and oversight of individual cases in relation to children and adults:
- To provide advice and guidance to employers and voluntary organisations;
 - To liaise with the Police and other agencies;
 - To monitor the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process;
 - To give advice to the Trust if a member of staff's behaviour causes concern to his or her line manager because it compromises or may be seen to compromise the reputation and ability of the organisation to safeguard Vulnerable Clients.

4.0 Policy Detail

- 4.1 This policy applies to all employees of the Trust and to all locum and bank staff, students, contractors, volunteers and people who are not employees of the Trust who provide services to the Trust.
- 4.2 Complaints or concerns raised about the quality of the care or professional practice provided by the person in a Position of Trust (PoT) will not come under this policy but will be dealt with under [OP08 Complaint Management Policy](#).
- 4.3 This policy will be applied to any person who works with Vulnerable Clients against whom, in any activity (related to their employment, personal life or voluntary activity etc.), any one of the following allegations has been made:
- Behaviour that has, or may have, harmed a Vulnerable Client;
 - A criminal offence against and, or related to a Vulnerable Client;
 - Behaviour towards a Vulnerable Client that indicates that she or he is unsuitable to work with Vulnerable Clients;
 - Concerns from the Police and, or the Local Authority about an individual's behaviour in regard to their own children or a family member;
 - Domestic abuse: in which circumstance, the Line Manager will seek guidance from HR (if the alleged victim also works for the Trust, RWT has a duty of care to both parties (see OP108 [Domestic Abuse Policy](#)).
- 4.4 Allegations of historical abuse must be treated in the same way as those alleging contemporary abuse.
- 4.5 All allegations that fulfil the criteria in 4.3 must be investigated thoroughly and appropriately.
- 4.6 The Trust must prioritize the welfare of Vulnerable Clients but must also treat all employees fairly and sensitively.
- 4.7 Any internal investigations will be managed independently by the immediate line manager of those against whom allegations have been made in accordance with the Trust's Policies HR03 and HR28.
- 4.8 A decision must be taken early in the process about whether the person about whom allegations have been made should be excluded from work or redeployed away from contact with Vulnerable Clients pending the results of the investigation
- 4.9 The Line Manager and or the SNO must take advice from the LADO and if relevant the Police about sharing the allegations at the earliest opportunity with

the person about whom they have been made. The person must:

- Be treated fairly and helped to understand the allegations;
- Be told how the investigation will be conducted and the possible outcomes and consequences;
- Be told if they are to be excluded or redeployed;
- Be offered referral to Occupational Health and Wellbeing;
- Be kept informed of the progress and outcome of the investigation and implications for any disciplinary action.

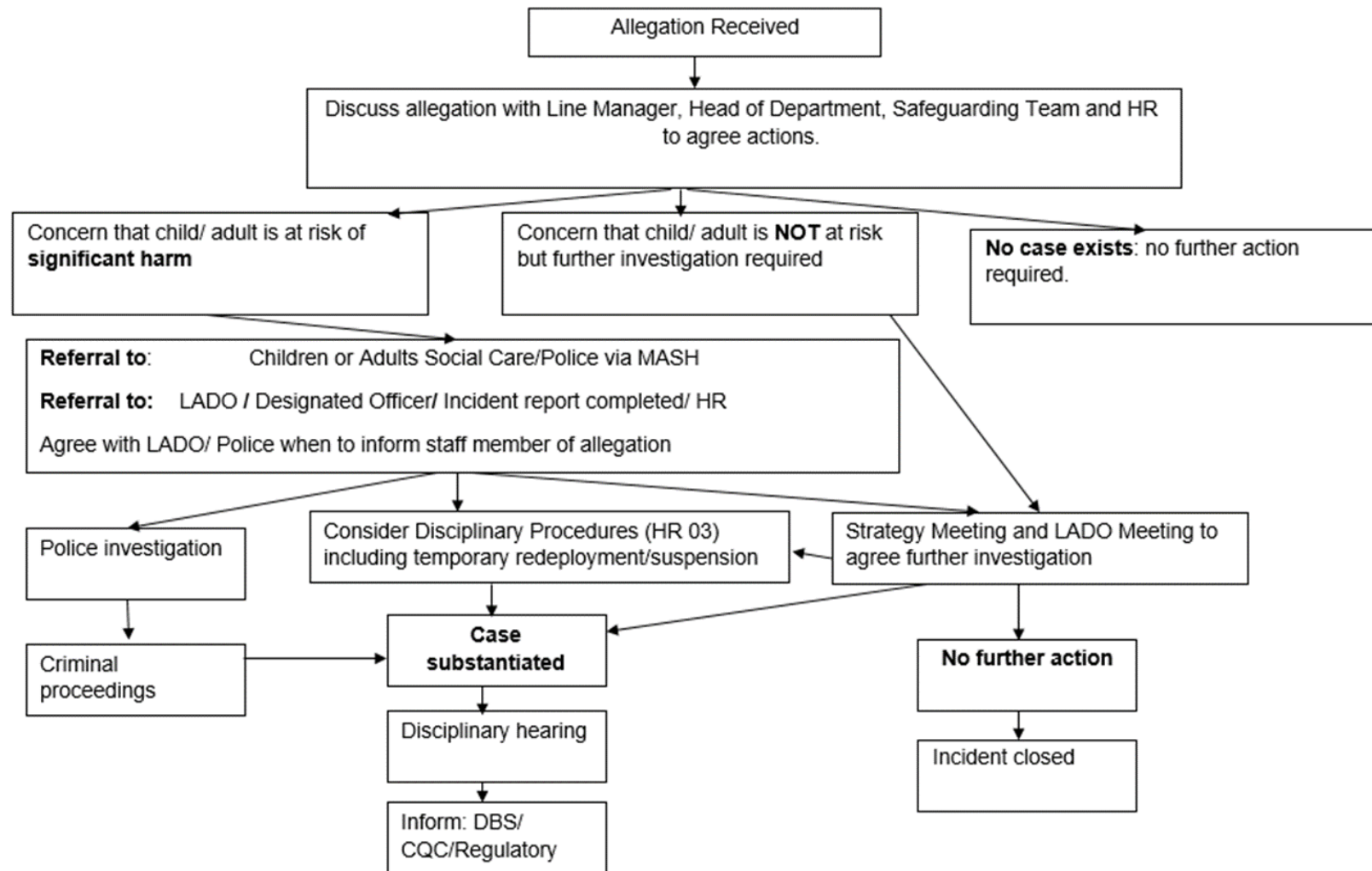
4.10 Information sharing is essential to safeguard and promote the welfare of Vulnerable Clients, but the following considerations must be respected.

- Every effort must be made to maintain confidentiality and guard against publicity whilst an allegation is being investigated or considered. Information must be restricted to those who have a need to know in order to protect Vulnerable Clients facilitate enquiries and manage disciplinary processes.
- The Data Protection Act 1998 and the Human Rights Act 1998 govern how, what and in what circumstances information may be shared.
- Disclosure of information to safeguard children, young people and adults with care and support needs is supported by legislation and national statutory guidance ('Working Together to Safeguard Children 2018, The Children Act 1989/2004, The Care Act 2014) and OP85 Information Sharing Policy.

4.11 As an employer of staff in a 'regulated activity' the Trust must refer certain concerns to the Disclosure and Barring Service (DBS) in accordance with the [Safeguarding Vulnerable Groups Act 2006](#). The DBS has no investigatory powers, so a referral to the DBS must not be made until the allegations have been substantiated, however if the individual leaves the Trust before the investigations have been completed, Managers should share the information that is available (if additional information becomes available after making a referral this must be given to the DBS).

4.12 Any referral to the DBS should be made on the DBS referral form (further information at [DBS Barring](#) and [DBS Guidance](#)).

4.13 Substantiated allegations may need to be shared with the appropriate regulatory body e.g. Nursing and Midwifery Council, General Medical Council or General Dental Council. For further advice, support to be sought from the Human Resources Department.



5.0 Financial Risk Assessment

1	Does the implementation of this policy require any additional Capital resources	No
2	Does the implementation of this policy require additional revenue resources	No
3	Does the implementation of this policy require additional manpower	No
4	Does the implementation of this policy release any manpower costs through a change in practice	No
5	Are there additional staff training costs associated with implementing this policy which cannot be delivered through current training programmes or allocated training times for staff.	No

6.0 Equality Impact Assessment

The Trust aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. An Equality Impact Assessment Screening has been undertaken and there are no adverse or positive impacts.

7.0 Maintenance

This policy will be reviewed by the Head of Safeguarding within 3 years or earlier should relevant legislation or good practice guidance change.

This policy will be monitored by the Named Senior Nominate Officer against the following key performance indicators:

- Number of reported allegations of behaviour indicating unsuitability to work with children and adults with care and support needs reported to the Local Authority Designated Officer;
- Number of staff referred to a professional body or regulator as a result of a substantiated allegation;
- Number of staff referred to the Disclosure and Barring Service as a result of a substantiated allegation.

8.0 Communication and Training

Directors and Managers are responsible for ensuring this policy is communicated to all staff.

9.0 Audit Process

Criterion	Lead	Monitoring method	Frequency	Committee
Compliance to Policy	Head of Safeguarding	Presentation of an annual report	Annually	Trust Safeguarding Group
Risk Exceptions	HR	Monitoring number of reported allegations, number of staff reported to professional bodies and number referred to DBS	Quarterly	Trust Safeguarding Group

10.0 References

[Disciplinary Policy \(HR03\)](#)

[HR28 - Supporting Doctors to Provide Safer Healthcare Policy and Procedure \(Disciplinary Policy\)](#)

[HR16 - Raising Concerns at Work](#)

[Health and Social Care \(Safety and Quality\) Act 2015](#)

[Advice for practitioners providing safeguarding services to children, young people, parents and carers](#)

[Working Together to Safeguard Children 2018](#)

[Statutory guidance Section 11 Children Act 2004](#)

[The Children Act 2004](#)

[The Children Act 1989](#)

[The Care Act 2014](#)

[HMSO \(1998\) Data Protection Act](#)

[HMSO \(1998\) The Human Rights Act](#)

[Wolverhampton Safeguarding Board](#)

[Care Quality Commission \(2009\) Outcome 7 Safeguarding people who use services](#)

Document Control

Policy number and Policy version: HR10 V7.0	Policy Title Managing Allegations of Behaviour Indicating Unsuitability to Work With Children and Adults with Care and Support Needs	Status: Final	Author: Head of Safeguarding Director Sponsor: Chief Nursing Officer	
Version / Amendment History	Version	Date	Author	Reason
	1	March 2008	Executive Director of Human Resources	New policy
	2	Dec 2010	Executive Director of Human Resources	Policy amendment
	3	Sept 2012	Divisional HR Manager	Policy Review
	4	Nov 2014	Divisional HR Manager	Policy Review
	5	May 2016	Divisional HR Manager	Policy Review
	5.1	April 2019		Director sponsor moved to CNO. Review by CNO extended to August 2019 pending full review
	5.2	Sept. 2019	Divisional HR Manager	Reviewed by Chief Nurse – extended to December 2019 pending full review
	6	January 2020	Head of Safeguarding	Policy review and update to reflect NHS England Managing Safeguarding Allegations Against Staff Policy and Procedure.
	6.1	January 2023	Head of Safeguarding	Extension

	6.2	May 2023	Head of Safeguarding	Extension
	7.0	October 2023	Head of Safeguarding	Full Review
Intended Recipients: This policy applies to all employees and workers of the Trust including temporary and locum/bank workers, trainees, students, agency staff, self-employed NHS professionals, any contractors working for the Trust and volunteers.				
Consultation Group / Role Titles and Date Trust Safeguarding Group/Wolverhampton CCG/Wolverhampton Local Authority/Human Resource team July 2019				
Name and date of Trust level group where reviewed			Trust Policy Group – October 2023	
Name and date of final approval committee			Trust Management Committee October 2023	
Date of Policy issue			November 2023	
Review Date and Frequency (standard review frequency is 3 yearly unless otherwise indicated)			October 2026 every 3 years	
Training and Dissemination: Launched via Senior managers briefing, Divisional Governance and Management forums, communicated through the chairs of approving committees, via the Intranet and guidance provided by the HR Advisory team. In addition to this, within safeguarding training.				
To be read in conjunction with: HR16 Raising Concerns at Work (Freedom to Speak Up) CP53 Safeguarding Adults at Risk Policy CP41 Safeguarding Children Policy HR03 Trust Disciplinary Policy HR 28 Supporting Doctors to Provide Safer Healthcare Policy and Procedure (ne Doctors Disciplinary Policy) Wolverhampton Safeguarding Children Board Policy & Procedure Wolverhampton Safeguarding Adult Board Policy & Procedures West Midlands Regional Policies and Procedures: WM Adult Position of Trust Framework OP85 Information Sharing policy Safeguarding Vulnerable Groups Act 2006 OP08 Complaints Management Policy OP108 Domestic Abuse Policy				
Initial Equality Impact Assessment (all policies): Completed Yes Impact assessment (as required): NA				

Monitoring arrangements and Committee	HR Sub Committee
<p>Document summary/key issues covered.</p> <p>It is essential that any allegation of abuse made against a person who works within The Royal Wolverhampton NHS Trust, who has contact with children and or adults, including those who work in a voluntary capacity is dealt with quickly and consistently. This will be in a way that provides effective protection for children and adults with care and support needs and at the same time supports the person who is the subject of the allegation.</p> <p>The Trust is required to fulfil its legal duties under the Children Act 1989, Section 11 of the Children Act 2004, Working Together to Safeguard Children (2018) and statutory guidance on Promoting the Health and Well-being of Looked After Children (2015).</p> <p>The Care Act (2014) and accompanying guidance provides the Legal Framework for safeguarding and promoting the welfare of adults. This guidance has replaced previous guidance in the document 'No Secrets' (2000).</p> <p>This policy outlines how The Royal Wolverhampton NHS Trust will effectively fulfil its legal duties and statutory responsibilities with regard to managing allegations against staff.</p> <p>It provides a framework to ensure appropriate actions are taken to manage allegations, regardless of whether they are made in connection to duties with the Trust or if they fall outside of this, such as in their private life or any other capacity</p> <p>An allegation may relate to a person who works with children/ adults with care and support needs who has:</p> <ul style="list-style-type: none"> • Behaved in a way that has harmed, or may have harmed, a child and or an adult with care and support needs; • Possibly committed a criminal offence against, or related to a child and or an adult with care and support needs, or • Behaved towards a child and or an adult with care and support needs in a way that indicates they may pose a risk of harm to them (WSB 2019) <p>In all of the above circumstances the allegation or concern may relate to a child, young person or adult with care and support needs receiving care from the Trust or relate to a child, young person or adult with care and support needs unknown to the Trust.</p>	
Key words for intranet searching purposes	Safeguarding, Allegations against staff, LADO