

## Policy on the Management of Allegations of Abuse against Staff under Safeguarding Procedures

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Purpose of Agreement	This policy outlines the arrangements that exist within Solent NHS Trust when allegations are made against any of its staff members in relation to the abuse of children and adults at risk – whether relating to activities in or outside of their work responsibilities
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## SUMMARY OF POLICY

This policy outlines the arrangements that exist within Solent NHS Trust when an allegation is raised about someone who works with Children and Adults at risk. Solent NHS Trust (or student body or voluntary organisation) must assess any potential risk to the Children and Adult at risk who use their services, and, if necessary, to take action to safeguard those children and/or adults. There must be clear recording, information-sharing guidance and timescales for action. It must also be mindful of the need to preserve evidence. This will be whether the allegation is current or historical.

The specific responsibilities for Solent NHS Trust include:

- Ensuring staff have access to expert advice and guidance to enable them to fulfil their responsibilities when responding to allegations.
- Responding promptly to allegations regarding their staff and for undertaking all necessary action in line with their internal process and agreed timescales.
- Monitoring the progress of cases to ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process.
- Ensuring appropriate systems are in place to support and provide regular updates to the employee in respect of the investigation.
- Making prompt referrals to the Disclosure and Barring Service (DBS) and/or Professional Registration Bodies, as relevant.
- Ensuring appropriate recording systems are in place and that these provide a clear audit trail about the decision-making process and any recommendations arising from the investigation and subsequent actions.
- Ensuring the control of information in respect of individual cases is in accordance with accepted data protection and confidentiality requirements.
- Maintain records of the number and nature of allegations made and using this data to inform service improvement and development.

Examples of concerns could include allegations that relate to a person who works with adults with care and support needs who has:

- Behaved in a way that has harmed, or may have harmed an adult or child.
- 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 children or adults at risk.
- A concern linked to an employee could also arise from the person's home / personal life, as well as within their work.

This document applies to all directly and indirectly employed staff within Solent NHS Trust and other persons working within the organisation in line with Solent NHS Trust's Equal Opportunities Document

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## 1. INTRODUCTION

- 1.1** This policy outlines the arrangements that exist within Solent NHS Trust when allegations are raised about someone who works with children and adults with care and support needs. For the purposes of this policy adults with care and support needs will be referred to as an Adult at Risk. The employer (or student body or voluntary organisation) must assess any potential risk to the Children and Adults who use their services, and, if necessary to take action to safeguard those children and/or adults. Allegations made about other agencies staff, should be directed to that individual agency. There must be clear recording, information sharing guidance and timescales for action. It must also be mindful of the need to preserve evidence. This will be whether the allegation is current or historical.
- 1.2** The policy is based on the following principles:
- It reflects a proportionate, fair and transparent approach and seeks to build on current internal allegations management processes rather than replacing these.
  - It applies to anyone working in a position of trust such as employees, volunteers or students, in a paid or unpaid capacity regardless of the sector. It deals with current as well as historical allegations.
  - The sharing of information will be justifiable and proportionate based on an assessment of the potential or actual harm to adults or children at risk.
- 1.3** This policy should be followed if it is alleged that a member of staff has:
- Behaved in a way that has harmed, or may have harmed, a child or adult at risk;
  - Possibly committed a criminal offence against, or related to, a child or adult;
  - Behaved towards a child or an adult at risk in a way that indicates s/he is unsuitable to work with children or vulnerable adults; and/or is believed to have engaged in an activity which may indicate that she/he is unsuitable to work with children or adults or could not hold the trust of the public in so doing (e.g. accessing inappropriate images/information via the internet).
  - Behaved in a way that constitutes domestic violence or abuse, whether this takes place inside or outside the home.
- 1.4** All Solent staff are responsible for responding to allegations regarding any person working for Solent in a position of trust with children and /or adults and for undertaking all necessary action in line with their internal process and agreed timescales

## 2. SCOPE & DEFINITIONS

- 2.1** This document applies to all directly and indirectly employed staff within Solent NHS Trust and other persons working within the organisation in line with Solent NHS Trust's Quality, Diversity and Human Rights Policy.
- 2.2** For the purposes of this policy, a **child** is defined as anyone beneath the age of 18 years.
- 2.3** An adult at risk is used to define "someone of 16 years or over whom, under the new Care Act 2014, meets the **3 Point Test**:  
Has needs for Care and Support (whether or not the Local Authority (LA) is meeting any of those needs) **AND** is experiencing, or at risk of abuse or neglect **AND** as a result of those care and support needs is unable to protect themselves from either risk of, or the experience of abuse and neglect. For the purpose of this policy, "vulnerable adult" also includes frail older people admitted to hospital or receiving care from friends, neighbours or family members.

**2.4** In this policy **Abuse** is defined as “a single or repeated action or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress”. Abuse in children is a form of maltreatment of a child. Somebody may abuse or neglect a child by inflicting harm, or by failing to act to prevent harm. Children may be abused in a family or in an institutional or community setting by those known to them or, more rarely, by others (e.g. via the internet). They may be abused by an adult or adults, or another child or children.

Abuse is a violation of an individual’s human and civil rights by any other person or people and may consist of a single or repeated act. 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.

It is now accepted that abuse does happen and that abuse can happen anywhere and be carried out by anyone (e.g. family, friends, neighbours, paid staff, carers, volunteers, other service users or tenants, strangers). People who are at risk of abuse are those who are unable to protect themselves against significant harm or exploitation due to a physical disability, mental ill-health, learning disability, age frailty or who may be unable to protect themselves emotionally.

Appendix 1 gives the reader definitions outlining the various categories of abuse. Although not necessarily an exhaustive list the definitions outline the various categories of abuse

### **3 PROCESS AND REQUIREMENTS.**

**3.1** This section provides guidance on how concerns should be reported and the process to be used to respond to these. If a ‘person in a position of trust’ is alleged to have abused or harmed a child or adult at risk, or who may pose a risk of abuse to a child or adult with care and support needs, it is essential that the concerns are appropriately reported and responded to. The possible risk of harm to vulnerable groups posed by an accused person needs to be effectively evaluated and managed in respect of those involved in the allegations, and any other vulnerable people in the individual’s home, work or community life.

**3.2** Consequently, where an allegation involves a staff member, managers should seek advice from the HR Business Partner in considering the need for suspension. Suspension from duty should be considered in any case where there is cause to suspect a child or adult is at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal.

**3.3** Solent NHS Trust must consider carefully whether the circumstances of a case warrant a staff member being suspended from contact with vulnerable groups whilst investigations continue. This decision should be informed by a risk assessment which leads to a conclusion as to whether the staff member is considered safe to continue working in their present capacity, a different capacity or whether they should temporarily refrain from working with children and/or vulnerable adults. (see appendix 4 on page 16 for the Risk Assessment) The power to suspend is vested in the employer alone; neither the Local Authority nor the police can require an employer to suspend a member of staff or a volunteer. However, any such decision by the employer will take into account the following: whether a strategy or initial evaluation

discussion concludes that there should be enquiries by Social Care and/or an investigation by the Police; the views of the Police/Social Care on the need to suspend the individual.

**3.4** Where suspension is instigated, the provisions of the relevant suspension/exclusion policy must be adhered to; this will include what arrangements the line manager will adopt in order to stay in regular contact with the suspended individual. At this stage, it remains an allegation only and the facts are yet to be established. In view of the fact that an investigation will follow, a broad rationale for suspension from duty will be given. Ultimately, it should be borne in mind that suspension is intended to be a neutral act to facilitate the investigation.

### **3.5 Types of Investigation**

When there is concern that a member of staff has harmed a child or vulnerable adult, either within the course of their work, or within their personal life, there are various potential strands of investigation which need to be co-ordinated, as follows:

#### **3.5.1 Inter-Agency Enquiries led by Social Care**

Decisions will be made on the action necessary to ensure the continuing protection of the child or adult at risk. Social Care has a statutory duty to make enquiries or to ask others to make enquiries on their behalf. The **Local Authority Designated Officer (LADO)** will lead the allegations management process in cases involving children and will be able to give advice, seeking views of other agencies, monitoring progress, and receiving information about outcomes.

Where a formal Adult section **42 safeguarding enquiry** is being undertaken, under the Care Act 2014, the function can be carried out as part of the enquiry process and this should include:

- An assessment and management of **risk posed** by a 'person in a position of trust' to be considered in the initial safeguarding planning meeting and subsequent meetings.
- Any action taken in respect of a person to be included in the safeguarding enquiry report.
- Supporting documentation should be reviewed as part of the Checking and Review stage of the safeguarding enquiry.
- Further actions to safeguard or management of risk should be included in the safeguarding plan.
- Where a formal safeguarding enquiry is not being undertaken, a 'Managing Concerns Meeting' should be convened to assess and determine the actions required to manage the risk posed by a 'person in a position of trust'.

The refreshed Care Act 2014 statutory guidance removes the requirement for a Designated Adult Safeguarding Manager. Whilst no longer a requirement in the Care Act 2014, the 4LSAB's strongly encourage organisations to establish a nominated lead or **Safeguarding Allegations Management Advisor (SAMA)**, to provide Safeguarding **advice** in complex cases to their organisation. The SAMA should have a significant level of expertise and knowledge in adult safeguarding and they should also have an operational leadership role in respect of their organisation.

**3.5.2** If deemed appropriate, where it is considered that a vulnerable child or an adult is suffering, or is likely to suffer significant harm, Social Care will call a strategy discussion to consider the allegations and a senior manager from this agency will chair the meeting. An appropriate member of staff from Solent NHS Trust (determined by the individual circumstances of the case), the Named Nurse Safeguarding Children or Safeguarding Lead Nurse for Adult and a senior HR partner for the service line implicated in allegation will be in attendance.

**3.5.3** The strategy will:

- Determine the composition of the investigating team;
- Finalise the process of investigation;

- Agree the process for informing the child's parent/carer or adult at risk who is the subject of the enquiry and/or their carer(s) if not already done and appropriate to do so.
- Consider any potential risk to any other children or vulnerable adult.

### **3.6 Police Investigation**

This will determine whether a crime has been committed. In order to prosecute there must be sufficient evidence to support a case that an offence has been committed: the burden of proof in such circumstances is 'beyond reasonable doubt'. If there is insufficient evidence, it does not automatically mean that the offence has not been committed, nor does it mean that the member of staff should not face disciplinary proceedings.

### **3.7 Internal Investigation and Disciplinary Procedures**

Internal investigation and disciplinary procedures apply where the conduct or performance of a staff member is suspected to have been unsatisfactory. The procedure aims to deal quickly, fairly, consistently and constructively with any potential breaches. The provisions of these procedures will be strictly followed at all times, including allowing appropriate representation for staff concerned. Any relevant information will be communicated to the appropriate people.

Where the police are conducting an investigation it will be appropriate to maintain on-going contact with them and where appropriate share information and to ensure that information is not passed to the member of staff concerned that would prejudice possible criminal proceedings. However, it is not necessary to await the outcome of any external enquiry before undertaking internal procedures, although it is important to gain consent from the police in order to ensure that evidence for the purposes of any criminal investigation is not contaminated. It is likely that these procedures will run concurrently. Regular contact should be maintained, as appropriate, between the lead managers for the HR investigation and the Consultant Nurse Safeguarding Children/Consultant Practitioner Safeguarding Adults and HR Business Partner.

If the outcome of the police investigation is not to prosecute it does not necessarily mean that the internal investigation will not proceed. Each case should be considered individually and a decision made depending on the circumstances. The internal investigation will determine whether a formal disciplinary hearing should be convened, or whether the allegations are unsubstantiated, hence a hearing is inappropriate. However, if the investigation reveals other matters which amount to misconduct in their own right, then the seriousness of these will determine whether the disciplinary process continues or whether it is referred back to line managers for advice and counselling. Normally where the allegation is deemed to be unfounded the staff member would return to their work place. However, each situation should be considered on an individual basis. Members of staff will be given appropriate support to re-establish relationships on their return to work, during what is likely to be a difficult period.

### **3.8 Complaints Procedure**

A complaint received by Solent NHS Trust may initially warrant a response in line with the organisation's complaints policy. Where a safeguarding related complaint has been received, the complaints procedure will not be pursued where an inter-agency investigation and/or HR investigation is instigated. In these circumstances it should be explained to the complainant that the matter is being taken seriously and formally investigated. In instances where neither of the procedures: inter-agency or HR investigation applies, then the complaints procedure should be followed.

When a member of staff receives an allegation of abuse involving a colleague or has concerns about potential abuse by a colleague, then the member of staff has a duty to inform their

immediate line manager or service manager if the former is unavailable. In circumstances where direct contact with the staff member's line manager would seem to be inappropriate then the service manager can be informed directly. If Out of office hours, they should inform the on-call manager. Once notified, the service manager should make immediate contact with the Named Nurse Safeguarding Children or the Lead Nurse for Safeguarding Adults to seek advice as to the appropriateness of a referral to Social Care. The LADO must be notified both at this stage and at the conclusion of each individual case. In conjunction with the Named Nurse Safeguarding Children or the Lead Nurse for Safeguarding Adults, contact should then be made with the Director of HR (in the capacity of Designated Officer for Allegations Management), and in their absence the Associate Director of HR, for advice regarding action to be taken with the member of staff concerned.

Where a referral has been made to Social Care, absolute confidentiality must be maintained to ensure that information is not inadvertently passed to the member of staff concerned that would compromise the welfare of the child or vulnerable adult. The staff member should be informed of the referral only following agreement with Social Care. Consideration should be given as to how and when the child or their parent/carer or vulnerable adult and their carer(s) should be informed of the complaint/concern.

All press/media enquiries must be referred to the Head of Communications in the first instance. It is important to note that where a child or adult at risk has made a disclosure none of the above actions should necessitate further questioning of that person by Solent NHS Trust staff. Nor does it affect that person's right to make a direct complaint to the police about the alleged abuse. In all circumstances, the Named Nurse Safeguarding Children or the Lead Nurse of Safeguarding Adults and the Chief Nurse, must be informed about the allegation. Any Out of Hour's media enquiries must be referred to Solent's Out of Hour on call Director.

## **4 CONFIDENTIALITY.**

**4.1** All staff members are required to keep confidential any information regarding patients and staff, only informing those that have a need to know. Confidential information must not be disclosed to unauthorised parties without the persons consent and/or prior authorisation by a senior manager. Any breaches of these requirements will potentially be regarded as serious misconduct and as such may result in disciplinary action. All staff have a confidentiality clause in their contract of employment with 3<sup>rd</sup> party contractors and suppliers who process personal information.

Confidentiality however can be overturned if the public interest in preserving confidences may be outweighed by a greater public interest in the information being disclosed. A professional who reasonably believes that other people will be put at risk of danger if confidential information is not disclosed is entitled to take steps which are reasonable in all circumstances to communicate their concerns to the responsible authorities. These principles should be applied in the context of raising concerns/making allegations of suspected abuse of vulnerable people. In such cases, including disclosure to Police, the Information Governance Team should be consulted, prior to any disclosure of information.

**4.2** Strict confidentiality however, should be maintained throughout and particularly to guard against publicity while an allegation is being investigated/considered. In accordance with Association of Chief Police Officers (ACPO) guidance the police will not normally provide any information to the media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. In exceptional cases where the police might depart from that rule, e.g. an appeal to trace a suspect, the reasons should be documented and partner agencies consulted beforehand. The system of self-regulation, overseen by the Press Complaints

Commission, also provides safeguards against the publication of inaccurate or misleading information.

**4.3** Decisions on sharing information must be justifiable, proportionate and based on the potential or actual harm to adults or children at risk. The rationale for decision-making should always be recorded. When sharing information between agencies about adults, children and young people at risk it should only be shared:

- Where relevant and necessary, not simply sharing all the information held;
- With the relevant people who need all or some of the information; and
- When there is a specific need for the information to be shared at that time.

**4.4 Informing the person about whom concerns have been raised:**

- Unless it puts the adult at risk or a child in danger, the person should be informed an allegation against them has been made and that it will be shared with their employer. They should be offered a right to reply.
- If possible, the person's consent should be sought to share information and advised what information will be shared, how and who with. Each case must be assessed on its own individual merits as there may be a case where informing the person about details of the allegation increases the risks to a child or adult at risk.
- If the person has another employer, the person should be given the opportunity to inform that employer themselves – sometimes the immediacy and nature of the risk won't allow for this.
- Solent should check appropriate information has been shared with the other employer to enable them to assess risk, and review the suitability of the person continuing to work and any other actions required.

**4.5 Resignation**

The fact that a staff member tenders his or her resignation, or ceases to provide their services, must not prevent an allegation being followed up in accordance with the above procedures. It is important that every effort is made to reach a conclusion in all cases. Wherever possible the staff member should be given a full opportunity to answer the allegation and make representations about it, but the process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be regarded as substantiated on the basis of all the information available should continue even if that cannot be done or the staff member does not co-operate. It may be difficult to reach a conclusion in those circumstances, and it may not be possible to apply any disciplinary sanctions if a staff member's period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

**4.6 Sickness and Other Absence**

In circumstances where an employee is absent on sick leave or absent for another reason (e.g. maternity, paternity, study leave, career breaks etc.), the investigation should not be halted but rather continue. Guidance should be sought from the Occupational Health Department in order to determine an individual's fitness to participate in the process.

**4.7 Referral to the ISA and Professional Bodies**

Consideration should be given at the appropriate time to the employer's statutory duty to make a referral to the Independent Safeguarding Authority (ISA) and also the registering body of the professional concerned where circumstances require that. All such referrals would be co-ordinated by the relevant Service Manager and support should be provided by the HR Business Partner in this connection.

*More support can be found in Appendix 2: regarding: 'Referrals to Professional Bodies' and in Appendix 3: regarding to Disclosure and Barring Service (DBS)*

#### **4.8 Record Keeping**

It is important that a clear and comprehensive summary of any allegations made, details of how the allegation was followed up and resolved, and details of any action taken and decisions reached, are recorded within a person's confidential personnel file and a copy given to the individual.

Personal files should be retained for the length of employment and then once a staff member leaves returned to Human Resources, whereby the record will be retained for 6 years, at which time a summary of the file must be kept until the individual's 70th Birthday, in accordance with Department of Health's Records Management Code of Practice, retention schedule, adopted by the organisation.

The purpose of the record is to enable accurate information to be given in response to any future request for a reference. It will provide clarification in cases where a future **Disclosure and Barring Service (DBS)** disclosure reveals information from the police that an allegation was made but did not result in a prosecution or a conviction. It will prevent unnecessary re-investigation if, as sometimes happens, allegations resurface after a period of time.

### **5 ROLES & RESPONSIBILITIES**

The **Chief Executive** has ultimate accountability for the strategic and operational management of the organisation, including ensuring adherence to all policies.

**The Assurance Committee** is responsible for approving this policy and ensuring that it represents best practice.

**All Managers** are responsible for ensuring the requirements of this policy are adhered to.

**All staff** within the Solent NHS Trust are responsible for adhering to this policy at all times and particularly for reporting suspected or actual cases of abuse in line with their responsibility to observe a duty of care to vulnerable groups. Staff members must also notify their manager in the event they are subject to enquiries or otherwise aware of any issues which may be of concern, for example, when they are associated with another person who becomes the subject of enquiries.

### **6. TRAINING**

**Safeguarding training** is mandatory for all staff and **Mental Capacity Act** training is mandatory for all clinical staff upon induction and at periodic intervals throughout employment. Line managers will be required to ensure their respective staff are made aware of this policy when this is cascaded through usual dissemination routes.

### **7. EQUALITY & DIVERSITY AND MENTAL CAPACITY ACT**

Solent NHS Trust is committed to treating people fairly and equitably regardless of their age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; or sexual orientation. An equality and human rights impact assessment has been carried out for this policy and no significant issues have been identified (Appendix 5). This policy has also been assessed and meets the requirements of the Mental Capacity Act 2005.

## 8. SUCCESS CRITERIA/MONITORING THE EFFECTIVENESS OF THE DOCUMENT

The success of this policy will be monitored by reference to statistics, which identify awareness on the part of staff members in relation to the measures to be taken in cases of suspected abuse. Its effectiveness will be measured by reference to documentation arising from internal HR cases, which identify compliance with the requirements of this policy.

## 9 REVIEW

This document may be reviewed at any time at the request of either staff side or management, but will automatically be reviewed 3 years from initial approval and thereafter on a triennial basis unless organisational changes, legislation, guidance or non-compliance prompt an earlier review.

## 10 REFERENCES AND LINKS TO OTHER DOCUMENTS

- Working Together to Safeguard Children.2013. Department for Education: Available online at : <http://www.workingtogetheronline.co.uk/resources.html>
- Guidance for Safer Working Practice for Adults Who Work With Children and Young People; Department for Children, Schools and Families (2007)
- Home Office: Disclosure and Barring Services. Available online at: <https://www.gov.uk/government/organisations/disclosure-and-barring-service>
- Maintaining High Professional Standards in the Modern NHS; Department of Health (2003/012) Available online at: [http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/@dh/@en/documents/digitalasset/dh\\_4103344.pdf](http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4103344.pdf)
- NICE: Guidance on when to suspect child maltreatment. 2009. Available online at: <http://guidance.nice.org.uk/CG89>
- Safeguarding Children – A review of arrangements in the NHS for safeguarding children; CQC (2009).Available online at: [http://www.cqc.org.uk/sites/default/files/media/documents/safeguarding\\_children\\_review.pdf](http://www.cqc.org.uk/sites/default/files/media/documents/safeguarding_children_review.pdf)
- Safeguarding Adults – Multi-agency Policy, Procedures and Guidance, Southampton, Hampshire, Isle of Wight and Portsmouth. Southampton, Hampshire, Isle of Wight and Portsmouth. July 2015
- Solent NHS Trust Suspension, Exclusion or Transfer Policy

## **Appendix 1: Definition of Abuse**

**Abuse** is defined as “a single or repeated action or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress”. Abuse in children is a form of maltreatment of a child. Somebody may abuse or neglect a child by inflicting harm, or by failing to act to prevent harm. Children may be abused in a family or in an institutional or community setting by those known to them or, more rarely, by others (e.g. via the internet). They may be abused by an adult or adults, or another child or children.

Although not necessarily an exhaustive list, the following definitions outline the various categories of abuse:

### **Physical abuse**

Physical abuse may involve hitting, slapping, kicking, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, misuse of medication, restraint or inappropriate sanctions, or otherwise causing physical harm to another person. Physical harm may also be caused when a carer fabricates the symptoms of, or deliberately induces illness in a vulnerable person. Physical abuse may be suspected as a result of physical injuries which have no satisfactory explanation or where there is a definite knowledge, or reasonable suspicion that the injury was inflicted with intent, or through lack of care, by a person having custody, charge or care of that person.

### **Psychological/Emotional Abuse**

Psychological/emotional abuse is the persistent emotional maltreatment of another person such as to cause severe and persistent adverse effects on that person’s emotional development or well-being. It may involve conveying to the vulnerable person that they are worthless or unloved, inadequate, or valued only insofar as they meet the needs of another person. It may amount to humiliation, harassment, bullying, shouting, swearing, blaming, controlling, coercion, verbal abuse, enforced isolation, deprivation of contact, threats of harm or abandonment, fears or bribes to negate a vulnerable person’s choices, independent wishes and self-esteem, withdrawal from services or supportive networks or over-dependence.

In the case of children, it may feature age or developmentally inappropriate expectations being imposed on children. These may include interactions that are beyond the child’s developmental capability, as well as overprotection and limitation of exploration and learning, or preventing the child participating in normal social interaction. It may involve seeing or hearing the ill-treatment of another. It may involve serious bullying causing the abused individual to frequently feel frightened or in danger, or the exploitation or corruption. Some level of emotional abuse is involved in all types of maltreatment of a vulnerable person, though it may occur alone.

### **Sexual Abuse**

Sexual abuse involves forcing or enticing a vulnerable person to take part in sexual activities, including prostitution, whether or not that person is aware of what is happening, could not consent or was pressured into consenting. The activities may involve physical contact e.g. rape, buggery, oral sex or masturbation, or non-contact activities, such as indecent exposure, involving the vulnerable person in looking at, or in the production of, pornographic material or watching sexual activities, unwanted teasing or innuendo, or encouraging vulnerable people to behave in sexually inappropriate ways.

**Neglect**

Neglect is the persistent failure to meet a person's basic physical and/or psychological needs, likely to result in the serious impairment of that person's health or development. It may include withholding care and treatment and/or failing to meet identified needs essential to everyday life. This may include ignoring medical or physical care needs, failure to provide access to appropriate health, social care or educational services, the withholding of the necessities of life, such as medication, adequate nutrition and heating. Neglect can be both physical and emotional. Neglect of a duty of care may also give rise to safeguarding issues and where the vulnerable person is at risk of significant harm.

**Financial or material abuse**

Financial or material abuse includes situations whereby an individual's funds or resources are inappropriately used by a third person. It includes withholding money or property, theft, fraud, exploitation, pressure in connection with wills or the entry of the vulnerable adult into financial contracts or transactions that they do not understand, to their disadvantage, or the misuse or misappropriation of property, possessions or benefits.

**Discriminatory abuse**

The term 'discriminatory abuse' may be used to describe serious, repeated or pervasive discrimination including racism, sexism or acts based on a person's disability, age, or sexual orientation. It is discrimination that leads to harm or exclusion from mainstream opportunities, provision of poor standards of health care, and/or which represents a failure to protect or provide redress through the criminal or civil justice system. It is often targeted at a perceived vulnerability or is the basis of prejudice on the basis of an individual's characteristics.

It also includes other forms of harassment, slurs or similar treatment such as disability hate crime.

**Domestic abuse**

Any or all of the above forms of abuse outlined may be termed as domestic abuse, when it takes place between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality.

## **Appendix 2: Referrals to Professional Bodies**

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

A professional body has a range of options where appropriate, these usually include suspending the person from practice, de-registering them or imposing conditions of practice that the person must work under. The principal organisations within health and social care are:

**Nursing and Midwifery Council ([www.nmc-uk.org](http://www.nmc-uk.org))**  
**Health and Care Professions Council ([www.hpc-uk.org](http://www.hpc-uk.org))**  
**General Medical Council ([www.gmc-uk.org](http://www.gmc-uk.org))**  
**General Optical Society ([www.optical.org](http://www.optical.org))**  
**General Dental Society ([www.gdc-uk.org](http://www.gdc-uk.org))**  
**General Chiropractic Council ([www.gcc-uk.org](http://www.gcc-uk.org))**  
**Royal Pharmaceutical Society of Great Britain ([www.rpsgb.org.uk](http://www.rpsgb.org.uk))**  
**General Osteopathic Council ([www.osteopathy.org.uk](http://www.osteopathy.org.uk))**

Each professional registration body:

- Maintains a public register of qualified workers
- Sets standards for conduct, performance and ethics
- Considers allegations of misconduct, lack of competence or unfitness to practice
- Makes decisions as to whether a registered worker can practice

Notification of a professional body is the responsibility of the employer. Where this action has been agreed with the organisation's nominated safeguarding lead, confirmation should be provided to them that the action has been completed. As the responsible authority for adult safeguarding, the local authority has the power to make a referral where the relevant criteria have been met, and should do so where it is necessary to ensure an appropriate referral has been made.

### **Appendix 3: Referrals to the Disclosure and Barring Service (DBS)**

On the 1st December 2012 the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) merged and became the Disclosure and Barring Service (DBS). This means that these same services are now provided by a single organisation rather than two.

The Disclosure and Barring Service can bar a person unsuitable to work with vulnerable people, 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 volunteer 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 so where it is necessary to ensure the appropriate referral has been made. Regulated activity is work (both paid and unpaid) with children or vulnerable adults that meets certain criteria. In relation to vulnerable adults, 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 '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 vulnerable adults [i.e. an action or inaction (neglect) that has harmed a child or vulnerable adult or put them at risk of harm]; or
- Satisfied the Harm Test in relation to children and/or vulnerable adults [i.e. there has been no relevant conduct (i.e. no action or inaction) but a risk of harm to a child or vulnerable adult still exists.

It is also possible to make a referral where this legal duty has not been met. For example, where there are strong concerns but the evidence is not sufficient to justify dismissing or removing the person from working with children or vulnerable adults. Such a referral would need to be compliant with relevant employment and data protection laws.

Where the need for a referral to the Disclosure and Barring Scheme (DBS) has been agreed with the organisation's nominated safeguarding lead, confirmation should be provided to them that the action has been completed. As the responsible authority for adult safeguarding, the local authority has the power to make a referral where the 'person in a position of trust' is employed in another organisation, and should do so where it is necessary to ensure an appropriate referral has been made.

The full up-to-date guidance and definitions must be referred to when deciding whether to make a Disclosure and Barring Service referral. For further information contact the Disclosure and Barring Service (DBS):

Helpline: 03000 200 190

Website: [www.homeoffice.gov.uk/agencies-public-bodies/dbs](http://www.homeoffice.gov.uk/agencies-public-bodies/dbs)

Email: [customerservices@dbs.gsi.gov.uk](mailto:customerservices@dbs.gsi.gov.uk)

## Appendix 4: Risk Assessment

This risk assessment process should be followed when an allegation of abuse has been made in relation to a member of staff or volunteer within Solent NHS Trust or when there is a perceived "risk by association", i.e. they have personal connections with another person who is considered to pose a risk to patients/clients of the Trust.

This process should lead to a decision as to whether or not a staff member is considered safe to work with children or vulnerable adults in either their present capacity or another role both in the short and longer term.

### 1. CONTEXT AND REASON(S) FOR CONSIDERATION

Summary of the presenting issue:
What are the identifiable risk factors or potential hazards to: <ul style="list-style-type: none"><li>- Children / Vulnerable Adults</li><li>- Peers / Colleagues</li><li>- The Service / Organisation / Setting</li><li>- Awareness of risk to self? (e.g. H&amp;S)</li></ul>
Factors for consideration may include:
What was the degree and nature of the alleged abuse?
What are the patient/client's support needs?
Is the patient/client able to advocate for themselves?
If applicable, what are the patient/client's wishes about how the concern should be dealt with?
What are the vulnerabilities of the other client's where the accused will be working?
May the vulnerability of the clients be a root cause of the incident? e.g. challenging behaviour?
What is the environment where the accused works e.g. patient's own home, ward where it is difficult to supervise etc?
Is there other relevant information from the accused worker's past home, work or community life that could affect this judgement?
Are there themes and trends – is this a recurring pattern for the worker and/or the service?
Is there divergence from acceptable standards without good rationale and did this lead to harm?
Is there suspicion or evidence of, lack of integrity or malicious intent?
What is the likelihood of recurrence?
Could a criminal offence have been committed?

## 2. RISK ANALYSIS

What are the potential risks to the service/organisation/setting (e.g. loss of public trust and confidence)?

What are the implications to the service/organisation/setting in the case of different options?

Is the proposed response reasonable and proportionate (consider JAPAN - justifiable, accountable, proportionate, auditable, necessary)?

## 3. RISK MANAGEMENT

What strategies can be put into place to manage the situation?

Is cooperation needed from other agencies to keep the other clients safe?

How will service/organisation/setting respond to further concerns or changes in circumstances e.g. when partner released or information gets into the public domain?

## 4. OTHER FACTORS FOR CONSIDERATION

## 5. OUTCOME / DECISION

Has the decision been made to suspend the staff member?

If not, what processes/systems are being used to minimise the risk to other vulnerable people from this staff member pending the outcome of investigations?

Do these adequately address the issue?

What processes/systems are being used to support the client(s) linked to this incident?

What processes/systems are being used to support other staff to manage the current situation?

**Date of strategy meeting:**

**People involved in the risk assessment process:**

Name	Designation

Appendix 5

**Equality Impact Assessment**

<b><u>Step 1 – Scoping; identify the policies aims</u></b>	<b>Answer</b>		
1. What are the main aims and objectives of the document?	To outline the arrangements that exist within Solent NHS Trust when allegations are made against any of its staff members in relation to the abuse of children or vulnerable adults – whether relating to activities in or outside of their work responsibilities.		
2. Who will be affected by it?	Staff members, members of the public and those working within partner organisations as applicable.		
3. What are the existing performance indicators/measures for this? What are the outcomes you want to achieve?	HR data is subject to monitoring and review to ensure there is no discrimination within the process.		
4. What information do you already have on the equality impact of this document?	Previous information gathered as a result of the existence of former policies within Solent’s predecessor organisations.		
5. Are there demographic changes or trends locally to be considered?	No.		
6. What other information do you need?	None.		
<b><u>Step 2 - Assessing the Impact; consider the data and research</u></b>	<b>Yes</b>	<b>No</b>	<b>Answer (Evidence)</b>
1. Could the document be used unlawfully against any group?		X	This policy is designed to ensure equity of treatment and adherence to legal requirements.
2. Can any group benefit or be excluded?		X	All groups would be treated equally in accordance with the stipulations of the policy.
3. Can any group be denied fair & equal access to or treatment as a result of this document?		X	As above.
4. Can this actively promote good relations with and between different groups?	X		All groups are treated equally and in accordance with best practice guidelines.
5. Have you carried out any consultation internally/externally with relevant individual groups?	X		Policy is formed by amalgamating those from Solent’s predecessor

			organisations. It has since been circulated to staff side
6. Have you used a variety of different methods of consultation/involvement	X		As above.
Mental Capacity Act implications		X	Does not impact upon patients directly.
7. Will this document require a decision to be made by or about a service user? (Refer to the Mental Capacity Act document for further information)		X	Does not impact upon patients directly.

There are no negative impact.