

Allegations of Abuse Policy

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Lincolnshire Community Health Services NHS Trust
Allegations of Abuse Policy
Version Control Sheet

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| 1 | Nov 08 | | For staff training sessions and then implementation | JB Designated Nurse for Child Protection and Children in Public Care to lead training sessions |
| 2 | 10 Feb 11 | SM | Review date extended on 10 Feb to 31 March 2011 to enable suitable review and approval to be undertaken | S Barnes extended review date for John Watkinson |
| 2.1 | May 2011 | | Policy realigned following implementation of Transforming Community Services agenda and new legal entity and change to alternative contact | |
| 3 | Aug 2011 | | Policy Review to be presented JCNC Nov 2011 | Rita Ahmet/Joy Gilbert |
| 4 | July 2012 | | Full review | Rita Trewartha |
| 4.1 | March 2013 | | Change ISA to DBS Minor amendment approved at January 2013 EPG | Rachael Ellis-Ingamells |
| 4.2 | June 2013 | | Minor changes made to policy | Rita Trewartha |
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| 5.2 | August 2016 | | Head of Safeguarding details updated | Head of Safeguarding |

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| 5.3 | May 2017 | | Contact details updated & education statement | Head of Safeguarding |
| 6 | February 2018 | | Full policy review and update to reflect NHS England Managing Safeguarding Allegations Against Staff Policy and Procedure. | Barbara Mitchell Head of Safeguarding |

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Lincolnshire Community Health Services NHS Trust

Allegations of Abuse Policy

Policy Statement

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| Background | <p>The primary aim for Lincolnshire Community Health Services NHS (LCHS) is to provide the highest standards of patient care. Every member of staff has a personal responsibility to achieve and sustain high standards of performance and conduct at all times.</p> <p>LCHS is committed to working in partnership with Lincolnshire County Council (LCC) Lincolnshire & Peterborough City Council Safeguarding Adults and Children’s Boards to protect adults and children from abuse and to have in place systems and processes to support the Lincolnshire/Peterborough Multi-Agency policies and procedures.</p> <p>This policy is complementary to, and should be read in conjunction with the Lincolnshire Safeguarding Children Board (LSCB) multiagency policy and procedures http://lincolnshirescb.proceduresonline.com/index.htm and Lincolnshire Safeguarding Adults Board (LSAB) policy and procedures http://www.lincolnshire.gov.uk/upload/public/attachments/1012/Final_Policy_Safeguarding.pdf/</p> <p>If in Peterborough this should be read in conjunction with the Peterborough Safeguarding Children Board (PSCB) www.peterboroughlscb.org.uk/children-board/professionals/procedures and the Peterborough Safeguarding Adults Board www.safeguardingpeterborough.org.uk/wp-content/uploads/2016/multi-agency-adult-safeguarding-procedures-final.</p> <p>This Policy is designed to promote fairness and consistency in the treatment of employees of LCHS and should be read in conjunction with the Investigation and Disciplinary Policies.</p> <p>The Policy outlines the procedure that will be followed when it is necessary to take action where allegations of abuse are made against any individual that has a working relationship with LCHS</p> |
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| <p>Statement</p> | <p>Children LCHS is committed to safeguarding and promoting the welfare of children and protecting them from harm, in accordance with its duty under Section 11 of the Children Act 2004.</p> <p>In all cases the Trust will operate this procedure for handling allegations of abuse that is consistent with the guidance within “Working Together to Safeguard Children” (HM Government updated 2017, Paragraph 4) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/592101/Working_Together_to_Safeguard_Children_20170213.pdf</p> <p>Adults LCHS recognises its priority should always be to ensure the safety, wellbeing and protection of adults in its care. It is the responsibility of all staff working with LCHS patients/clients/service users to act on any suspicion or evidence of abuse or neglect, and to report their concerns to a responsible person, manager or agency to uphold the principles that we;</p> <ul style="list-style-type: none"> • Stop abuse or neglect wherever possible • Prevent harm and reduce the risk of abuse or neglect to adults with care and support needs; • Safeguard adults in a way that supports them in making choices and having control about how they want to live. <p style="text-align: right;">The Care Act 2014</p> <p>This policy will apply to any individual against whom an allegation is made that has a working relationship with LCHS. This includes all employees whether employed on full-time, part-time, bank or fixed term contracts irrespective of their length of service.</p> <p>It also applies to contracted staff, volunteers and/or people who provide services to the organisation under self-employed status. It also includes service providers, voluntary organisations, employment agencies or businesses, sub-contractors or others that may not have a direct employment relationship with the organisation but where it would be necessary for the organisation to consider whether to continue to use their services, or to employ the person to work with adults or children in future.</p> <p>Any information provided to the organisation anonymously will be investigated thoroughly within the bounds of the information provided.</p> |
| <p>Roles and responsibilities</p> | <p>The roles of LCHS Managers, Employees, Head of Safeguarding, and Practitioner Performance Manager (PPM) are identified within the policy, as are the roles of LCC Local Authority Designated Officer (LADO) and Local Authority Designated Safeguarding Adult Manager (DSAM).</p> <p>Compliance with the policy will be the responsibility of all staff.</p> <p>LCHS is defined as an education provider by the Department for Education and Skills (DfES). The Head of Safeguarding will undertake the role of</p> |

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| | Designated Learning Safeguarding Person (DLSP) and have responsibility for co-ordinating action regarding learners within LCHS and for liaising with other agencies as appropriate |
| Training | <p>Mandatory Safeguarding Training, relevant to their role, will be provided for all employees. This will include content relating to ‘allegations against staff’.</p> <p>It is expected that management and staff side involved in Disciplinary Interviews/Hearings and Appeals will receive appropriate training. Training will include employment law (relevant legislation), the investigatory process, the hearing process and appropriate conduct throughout the process.</p> <p>Training in relation to equality and diversity principles specifically related to the organisation’s Single Equality Scheme is also a requirement.</p> |
| Dissemination | Website alerts |
| Resource implication | Within existing resource |
| Equality & Diversity Statement | This policy aims to meet the requirements of the Equality Act 2010 and ensure that no employee receives less favourable treatment on the grounds of gender, sexual orientation, transgender, civil partnership/marital status, appearance, race, nationality, ethnic or national origins, religion/belief or no religion/belief, disability, age, carer, pregnancy or maternity, social status or trade union membership. |

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Lincolnshire Community Health Services NHS Trust

Allegations of Abuse Policy

INTRODUCTION

The Care Act 2014, Care and Support Statutory Guidance Chapter 14 sets out in paragraphs 14.120 – 14.132 the management responsibilities regarding allegations against people in positions of trust.

1.1 This policy must be considered and/or where there is a concern that an employee has:

- Behaved in a way that has, or may have, harmed a child and /or adult
- Possibly committed a criminal offence against, or related to a child / adult (including domestic violence)
- Behaved in a way that indicates that s/he is unsuitable to work with children / adults
- Been subject to a MARAC (Multi-Agency Risk Assessment Conference) as a perpetrator or MAPPA (Multi-Agency Public Protection Arrangements) process; or referred for the same

1.2 This should not be considered an exhaustive list and in cases of doubt, advice **MUST** be sought from the Head of Safeguarding or Named Safeguarding Professionals. This may include allegations which occur outside of the work place but which may have an impact on a child or adult's well-being or safety (reference professional code of conduct).

1.3 All allegations of abuse made against a member of staff are treated with a "zero tolerance" approach. This position is taken to afford the alleged victim, either child or adult the maximum level of protection possible. It is not to be considered an assumption of guilt on the part of the alleged member of staff

1.4 The Trust recognises that it has a duty of care to its staff but will respond to every allegation by investigating the allegation in a thorough and transparent manner, and liaising where appropriate with other statutory agencies.

1.5 Allegations may be current in nature, historical or both. Even where concerns are clearly historical, allegations may have implications for the safety of children or adults now and should be responded to in accordance with this policy

1.6 The Trust is committed to safeguarding and promoting the welfare of children, young people and adults at risk of abuse or neglect. It is also committed to creating a climate in which allegations or concerns can be raised without fear or recrimination to the reporter

1.7 All staff have a duty to be alert to potential vulnerabilities in children and adults, and to know what to do if they have concerns. The Trust will ensure that staff are provided with the resources and skills needed to implement the safeguarding policies when dealing with safeguarding concerns raised against staff

1.8 This policy facilitates appropriate and coordinated responses to allegations made against all Trust employees and workers, both temporary and substantive and includes those engaged by the Trust in a non-remunerative capacity, students and volunteers

1.9 It provides a framework to ensure appropriate actions are taken to manage allegations, regardless of whether they are made in connection to duties undertaken with LCHS or if they fall outside of this such as in their private life or any other capacity

1.10 This policy applies to those allegations where there is reason to believe a child or adult is at risk of harm. However, it also applies to allegations which might indicate the alleged source of harm is unsuitable to work with adults or children in their present position or in any future capacity

1.11 The Trust has adopted the same principles and procedures regardless of the age of the alleged victim to ensure that the Trust is a safe organisation whose service users and patients are safeguarded and have their welfare promoted. It is important to ensure even apparently “less serious” allegations or concerns are followed up and scrutinised

1.12 LCHS supports the reporting of concerns in all cases including under its Whistleblowing Policy, which in line with Department of Health Guidelines reminds employees that they may report allegations of criminal activity directly to the police. Other situations which are ‘less serious’ may not warrant this level of response and may be dealt with in accordance with the disciplinary procedures

1.13 The Director of Nursing & Operations, Head of Safeguarding, Head of Clinical Service, Practitioner Performance and the Director of Workforce and Transformation Human must be informed as soon as possible about any allegations made against members of Trust staff. The Medical Director will be advised in relation to allegations involving medical staff.

1.14 This policy should be read in conjunction with LCHS and Lincolnshire Local Authority (LLA) Safeguarding Children & Safeguarding Adults policies and procedures which also provide advice to employees on how to respond to concerns of abuse and acknowledges that allegations of abuse is a highly emotive subject and invokes strong feelings

1.15 This policy ensures that LCHS complies with legislative requirements and partnership agreements, including notification to the Care Quality Commission (CQC) in handling allegations of abuse against any individual providing services for the Trust

2. PURPOSE

2.1 This policy will provide a fair and transparent framework for managing safeguarding allegations against staff without prejudice or implication of guilt

2.2 In the event that an allegation is raised which relates to a LCHS Trust Executive or Non-Executive Director, consideration for involving another NHS organisation to facilitate the investigation as part of this procedure will be considered

3. PRINCIPLES

3.1 The scope of this policy applies to all members of Trust staff regardless of their current role or place of work. The term “members of Trust staff” is used within this policy and refers to staff as follows:

- Employed by Lincolnshire Community Health Services (LCHS)
- Seconded or attached from other agencies
- Bank, locum or agency staff
- Volunteers
- Students
- Contracted with or commissioned by LCHS to provide services
- Medical staff;
- Service user, carer, elected, appointed and public representatives, and non-executive board members who take part in Trust committees and working groups.

3.2 It applies whether the allegations arise in connection with:

- The employee’s own work
- The employee’s own children / adult family members
- Other children / adults living within the family
- Other children /adults living outside the family
- Whether the concern is current or historical

3.3 This policy will be used and applied to all members of Trust staff who are alleged to have:

- Behaved in a way which has harmed, or may have harmed or may be a risk of harming a child or an adult
- Possibly committed a criminal offence against, or related to, a child or an adult
- Behaved towards a child or adult in a way which indicates they are unsuitable to work within the Trust

3.4 Consideration will be given when the actions, behaviours or attitude of a member of Trust staff brings the organisation into disrepute or potentially compromises their professional code of conduct and/or conditions of professional registration

3.5 If the Trust becomes aware of an allegation or concern about an individual who is not employed by the Trust but who is employed under the same statutory framework (i.e. GP practice, children or adult social care services, etc) the Trust would inform the employer in order that they can instigate their own internal investigations. If the concerns were in relation to children the Local Authority Designated Officer (LADO) see 5.81 will be informed

3.6 If there is reasonable cause for the Trust to consider that the actions or omissions of a member of its staff may adversely impact on the health or welfare of any child or adult this policy will apply

4. AIMS AND OBJECTIVES

4.1 For all staff to understand their roles and responsibilities in relation to the safeguarding of adults and children experiencing, or at risk of, harm or abuse

4.2 All staff to understand the necessity to conduct themselves in a manner commensurate with being a fit and proper person whilst holding a position of trust in their employment with LCHS

4.3 All staff to understand the consequences of acting in a manner which is found to have ill-treated or neglected an adult or child in their care with regard to

- Mental Health Act 1983, section 127
- Mental Capacity Act 2005, section 44
- Criminal Justice and Courts Act 2015, sections 20-25
- Health and Social Care Act 2008 (Regulated Activities) Regulations 2014,
- CQC Regulation 20 – Duty of Candour

(see references)

4.4 To ensure that allegations are dealt with consistently, thoroughly and in a timely manner.

4.5 The process outlined will ensure appropriate, pragmatic and proportionate responses are made in partnership with other agencies taking into account the risk, history and context of each situation.

5. ROLES AND RESPONSIBILITIES

5.1 Trust Board

The Trust Board is responsible for ensuring that a culture of openness, trust, service quality and improvement and sharing of learning is present within the organisation. It has overall responsibility for ensuring that the Trust's duties with regard to safeguarding adults and children and for ensuring the management of allegations and serious incidents are appropriately discharged, including ensuring compliance with this policy. The Board will receive assurance of this through the Safeguarding and Patient Safety Group and Quality and Risk Committee.

5.2 Executive Team

The Executive Team is responsible for ensuring a culture of openness, service quality and improvement and ensuring there is a mechanism for the sharing of learning within the Trust.

5.3 Medical Director

Holds the professional lead for registered medical staff and will enact any necessary referrals to registering bodies as required following outcomes of investigations. The Medical Director will be advised at the outset of all allegations against members of Trust medical staff

5.4 Head of Safeguarding will

- Be informed of all allegations of abuse
- Liaise with partner agencies as required
- Act as LCHS Senior Liaison Officer (SLO) Children Safeguarding
- Act as LCHS Designated Adult Safeguarding Manager (DASM)

Notify the LADO of all allegations of child abuse brought against any individual providing services for the Trust

Liaise with the Local Authority Designated Adult Safeguarding Manager (DASM); CQC and CCG where necessary where allegations of abuse of an adult is brought against any individual providing services for the Trust

Provide liaison for updates with partner agencies e.g. police, counter fraud etc. and report this information to the Trust Executive Group

Ensure completion of internal investigations

5.5 All Staff

Should ensure that they are fully aware of their responsibilities under the Safeguarding Adults, Safeguarding Children's Policies and Procedures and have attended mandatory safeguarding training relevant to their role

Are responsible for ensuring that any allegation that they are aware of against another member of staff is brought to the attention of their manager in order for it to be addressed through this policy

Including volunteers and visiting celebrities have a right and a duty to raise any safeguarding matter of concern that they may have about the delivery of care to patients and service users, even if this involves raising concerns about the conduct of a colleague. They should therefore raise any such concerns with their line manager or an appropriate alternative manager

Employees who are making an allegation against a colleague should be made aware of the Trust whistle-blowing policy

Must inform their line manager and the Director of Human Resources if an allegation has been made against them whether this relates to their work or outside of work

Members of staff should be supportive of colleagues who report any untoward incidents or concerns and they have a duty to co-operate with any investigation that may be carried out in response to an allegation against a colleague.

Ensure their availability for investigation interviews when requested

If allegations are made against them, give a clear and concise account of their version of events, supplying any supporting evidence where necessary

If an allegation is made against a colleague and they are invited to an investigation interview, give an honest and first-hand account of events, supplying supporting evidence where necessary

Maintain confidentiality throughout the whole process

Perform their duties in accordance with their contractual obligations, professional codes of conduct and the terms of their registration

Adhere to the professional boundaries of their role in order to ensure that their practice is safe

Exercise due care in the performance of their duties

Exercise their duty of care to others, e.g. safeguarding, raising concerns and whistle-blowing

Treat colleagues, patients, carers and visitors with respect ensuring their privacy and dignity

Be honest and trustworthy

Be co-operative and act reasonably

5.6 All managers

Trust managers are responsible for ensuring this policy is distributed and endorsed within their service areas. All are responsible for disseminating the policy within their area of responsibility and ensuring it is implemented by providing advice and support to staff. They are responsible for ensuring that all allegations are managed in accordance with this policy

5.7 Practitioner Performance will:

- Be informed of all allegations of abuse

- Ensure compliance in dealing with allegations of abuse with LSCB and LSAB policy and procedures
- Complete internal investigations
- Refer cases to the DBS/NMC as appropriate

5.8 External Agencies

For more complex allegations or concerns, and for all allegations involving children, there are a number of external agencies that must be involved in accordance with statutory guidance. Three key roles who could potentially be involved are the Local Authority Designated Officer (LADO), the Local Authority Designated Adult Safeguarding Manager (DASM) and the Police safeguarding unit. Detailed guidance and support, in the event of any of these agencies needing to be involved, would be provided by the Head of Safeguarding and/or the Director of Nursing and Operations.

5.8.1 The Local Authority Designated Officer (LADO)

Is responsible for overseeing individual cases of allegations concerning children and for providing advice and guidance to employers and voluntary organisations. They will ensure that decisions are made as objectively as possible and they will monitor the progress of cases to ensure that they are dealt with as quickly as possible in a consistent, thorough and fair process.

5.8.2 The Local Authority Designated Adult Safeguarding Manager (DASM)

Will in cases of allegations of abuse against adult(s) have the full authority of all partner agencies and co-ordinate the safeguarding adults process.

5.8.3 The Disclosure and Barring Service (DBS) will

- Maintain a list of individuals barred from engaging in regulated activity with children
- Maintain a list of individuals barred from engaging in regulated activity with adults
- Make well-informed and considered decisions about whether an individual should be included in one or both barred list
- Reach decisions as to whether to remove an individual from the barred list

6. THE PROCESS

6. 1 The first priority is to ensure the immediate safety of the child (ren) or adult(s). Serious allegations may need immediate referral to LCC adult or children's services and/or the police. For contact details see the safeguarding page on the Trust website.

6. 2 All allegations of abuse should be reported through existing line management structures. If this method is compromised for whatever reason, alternative management oversight should be sought (please see the Whistleblowing Policy for further information)

6. 3 The line manager in receipt of an allegation will contact the following people immediately the allegation is received:

- Head of Clinical Service
- Head of Safeguarding
- Director of Human Resources and Organisational Development
- Practitioner Performance
- Director of Nursing and Operations

6.4 A 'Datix' incident report MUST be completed. (Appendix 1 provides a summary of the process to be followed).

6.5 Reputational issues must be discussed with the Director of Nursing & Operations and managed appropriately with the communications team if required.

6.6 The Local Safeguarding Children Board (LSCB) and Local Safeguarding Adult Board (LSAB) have their own websites which set out their policies and procedures for safeguarding children/young people/ adults at risk of harm or abuse. The LADO Officer will act on their behalf in investigating allegations; this role plays a critical part in terms of working in partnership with the NHS to manage risk and was cited as the critical relationship in the Savile investigations. The LADO will be informed by the Head of Safeguarding of allegations relating to children, as per the local safeguarding procedures.

7. NECESSITY TO SUSPEND / EXCLUDE FROM DUTY

7.1 In some cases it will not be appropriate for a member of staff to remain at work whilst an investigation is being undertaken. After consideration of the circumstances however it may be possible, as an alternative to suspension, to transfer the staff member concerned to a different work area or setting.

7.2 This decision will be taken by the relevant Head of Clinical Service, Director of Nursing & Operations and the Director of Workforce and Transformation who will seek advice on the level of supervision from the Head of Safeguarding where appropriate.

7.3 All procedures in relation to suspension and internal investigative processes are detailed within the Trust's Disciplinary Policy.

7.4 Where the allegation involves the member of staff's family consideration must be given to the safety of the family members. The person leading the investigation in line with the staff member's line manager and the head of safeguarding should decide if the police or other statutory services need alerting, if a staff member is suspended from duty. Advice from the Director of Workforce and Transformation should be sought where necessary. The Head of Safeguarding and the Director of Nursing & Operations should be aware of all decisions made.

7.5 When the criteria is met a Serious Incident report-of the allegation against a healthcare or non-healthcare professional should be reported on the Strategic Executive Information System (STEIS).

7.6 Any action taken by LCHS to manage an allegation must not jeopardise any external investigations, such as a criminal investigation.

7.7 It is essential that every effort must be made to maintain confidentiality and manage communications while an allegation is being investigated

7.8 The Head of Safeguarding is the nominated Senior Liaison Officer (children) (SLO) and Designated Adult Safeguarding Manager (DASM)(adults) within LCHS. S/he will ensure (if appropriate) that a child protection/adults at risk referral is made (or has been made) to the relevant Children/Adult Social Care Team and where appropriate the Police, using the required reporting form as detailed in the local policies and procedures of the area in which

the person is situated. The referral must be put in writing to Children/Adult Social Care by the individual reporting the concerns within 24 hours or in the event of a weekend the earliest opportunity of the next working day.

7.9 Where the issue is in relation to safeguarding children, the Senior Liaison Officer will liaise with the Local Authority Designated Officer (LADO), who will decide with the SLO if and what information needs to be shared with other geographical areas depending on where the staff member lives. The LADO can be contacted through the local Social Care team or the LSCB contact lead.

7.10 Immediate issues of investigation and management of the employee should be discussed and agreed at this time, including what information should be passed to the staff member concerned at this point.

7.11 For LCHS directly employed staff the line manager must contact the Workforce and Transformation Department for advice regarding the action to be taken in relation to the employee.

7.12 The responsibility for informing the employee following discussion with relevant professionals rests with the line management structure, supported and advised by the Workforce and Transformation Department.

7.13 In conjunction with the Workforce and Transformation Department and the staff member's line manager, a decision must be made whether exclusion is appropriate during the period of investigation. HR will advise on the authority levels and process requirements for this action.

7.14 The Workforce and Transformation Department will advise whether the disciplinary procedure is to be followed, or, in the case of a Performer subjected to the performers list regulations, which procedure will be observed. HR advice will be sought in relation to staff who are agency, secondees, or self-employed staff working on behalf of NHS England.

7.15 Following notification to Social Care and/or the Police if deemed necessary, the SLO/DASM should undertake an internal Strategy Planning Meeting (see below) with the appropriate personnel to decide how to manage the allegation; the LADO should attend this meeting. This group should include the Line Manager; SLO or member of corporate safeguarding team and Workforce and Transformation support.

7.16 Report the allegation for information to the Director of Nursing

8. STRATEGY PLANNING MEETING

The following issues will be considered at this meeting;

- What further contact is required with statutory agencies including Police and the Local Authority (LA). A member of the Investigation Team should be identified as the link person
- Whether the child/young person/ adult at risk of harm or abuse is safe from any further risk of harm or abuse
- Review what action has already been undertaken so far to ensure the safety of the alleged victim
- Decide the internal investigation strategy to be undertaken.
- The Police and/or LA should be consulted in all cases where there are any on-going investigation and/or criminal proceedings pending
- A referral to the appropriate professional regulatory body should the member of staff be a registered professional such as the General Medical Council (GMC) for doctors, or the Nursing and Midwifery Council (NMC) for nurses. Health Care Professional Council (HCPC) for allied health professionals
- Agreement should be reached with the LA and the Police about what information should be shared with the staff member concerned
- The Line Manager should be asked to provide appropriate support to the individual while the case is on-going and keep them regularly informed. Further support may be considered necessary from Occupational Health
- Decide how the person/child/ adult at risk of harm or abuse, or their nominated parent/guardian/nominated carer making the allegation is to be kept informed of what is happening to their allegation, whilst adhering to the requirements of maintaining confidentiality and observing the requirements of the Human Rights Act and the Data Protection Act.
- The sharing of information must not 'contaminate' any LCHS, Police or children/ adult Social Care investigations that are on-going
- LCHS Communications team should provide additional support and advice in relation to the handling of any queries from the media concerning the allegation.
- To ensure that the incident has been reported on the STEIS system where appropriate
- Decide what information needs to be shared with the senior management team.
- Decide the frequency and format of review meetings to progress the on-going investigation and the actions required

9. LCHS DISCIPLINARY POLICY

A referral to the DBS should be made following initial information gathering to establish whether there is cause for concern. A referral should be made even if the person in question has left LCHS before an investigation and/or disciplinary process has been completed. However, it is important to note that the DBS has no investigatory powers and therefore relies upon evidence supplied to it. Managers therefore have a responsibility to complete investigations as far as possible, even where the individual leaves before investigations can be completed, so that the DBS has enough substantiated evidence on which it can base its decision. If additional information becomes available after making a referral this should also be provided to the DBS. The referral should be made using the DBS referral form and posted to the DBS enclosing all relevant information held. Please see further guidance and information at <https://www.gov.uk/government/publications/dbs-referrals-form-and-guidance>

10. DUTY TO REFER AS A REGULATED ACTIVITY PROVIDER

As a regulated activity provider LCHS has a duty to refer all allegations of abuse or misconduct towards a child or adult made against a member of staff or a member of staff of a contractor or

partner organisation. The terms 'staff' or 'employee' should be read as including any person or organisation responsible for volunteers.

10.1 A referral must meet **both** criteria below:

- LCHS withdraws permission for an individual to engage in regulated activity, or would have done so had that individual not resigned, retired, been made redundant or been transferred to a position which is not regulated or controlled activity because:

They think that the individual has:

EITHER – Engaged in relevant conduct:

- That endangers a child or adult or is likely to endanger a child or adult;
- If repeated against or in relation to a child or adult, would endanger them or would be likely to endanger them;
- Involving sexual material relating to children (including possession of such material);
- Involving sexuality explicit images depicting violence against human beings including possession of such images, if it appears to DBS that the conduct is inappropriate;
- Conduct of a sexual nature involving a child or adult, if it appears to DBS that the conduct is inappropriate.

OR – Satisfied the harm test: Where LCHS believes that an individual:

- May harm a child or adult
- May cause a child or adult to be harmed
- Puts a child or adult at risk of harm
- Attempts to harm a child or adult, or
- Incites another to harm a child or adult

OR – Received a caution or conviction for a relevant offence

10.2 If both conditions have been met the information must be referred to the DBS once the regulated activity provider has gathered sufficient evidence as part of their investigations to support their reasons for withdrawing permission to engage in regulated activity and in following good practice, consulted with their Local Authority Designated Officer (LADO).

10.3 If following an internal investigation, it is decided that the best course of action is to issue a formal warning and return the employee to a regulated activity with additional training LCHS still have a duty to refer to the DBS. This is because both conditions were satisfied by withdrawing the employee from regulated activity and it has been established that relevant conduct or the harm test has been satisfied.

10.4 As detailed in the lessons learned report into Savile by Kate Lampard QC (2015) if a safeguarding allegation is made against a worker working for LCHS who is not directly employed by LCHS, the allegation must also be shared with their employer or the body that engaged them at the earliest opportunity. The following are examples of some potential scenarios that might arise, but this is not exhaustive;

Allegations against:

- Contracted staff including GPs, Optometrists, Dentists and Pharmacists should be managed according to the performer's list policies and procedures.
- Agency workers must be reported to the appointing agency and referred to appropriate Governing Body.
- Workers employed by external contractors should be referred to the contractor and the relevant lead body in LCHS and responsible for managing the service level agreement with the contractor.
- Workers seconded in from another employer to LCHS, or embedded with LCHS but employed elsewhere, should be reported to the relevant employer.
- Volunteers undertaking duties for or on behalf of LCHS must also be reported to the voluntary body the person is volunteering with.
- Workers engaged under a contract for services should be referred to NHS Procurement or is there a local/regional place for referral.

10.5 Any team identified in a 'Fact Finding Investigation' (FFI) should be appointed for such allegations and undertake the duties set out above. **Appendix 1** Process flow chart should be followed for all cases.

10.6 LCHS will need to engage with the other relevant parties outlined above to decide how the allegation should be managed. These scenarios are likely to be complex and LCHS should take early advice from their local safeguarding and HR leads. It is recommended that a meeting is held between LCHS and the other party/parties at the earliest opportunity, noting the responsibility to report issues to the Police and/or Social Care teams within 24 hours of the allegation being received. Such parties should be asked to attend the strategy meeting.

10.7 For contracted staff such as GPs the practitioner performance manager should be informed so that the case can be reviewed and investigated. Cases may need to be referred to the performance group for action and further referral to the GMC

10.8 Despite the fact that allegations against such workers should be reported as above, LCHS still retains a responsibility to consider how the allegations should be managed if the allegation has a connection with, or relevance to, the duties that the worker undertakes with LCHS. All such allegations need to be reported and escalated by the SLO/DASM in accordance with the requirements of this policy.

10.9 Assumptions should not be made that the other party has referred the matter to the police or relevant other body - evidence needs to be promptly provided and if this is not forthcoming then LCHS and the Head of Safeguarding should do so on behalf of LCHS and advise the other party accordingly

11. NO LEGAL DUTY TO REFER

There are situations in which LCHS may make a referral but there is no legal duty to refer, for example, following an internal investigation there is insufficient evidence to show relevant conduct occurred but there are serious concerns about that individual. Even though the circumstances do not meet legal requirements, the individual may have left LCHS employment and it is known or believed that the individual works in regulated activity in another setting. This may be reported as 'patterns of behaviour' which may form evidence on which the DBS might make a future decision to bar.

12. REQUIREMENT TO SUBMIT INFORMATION WHERE THE EMPLOYEE IS A 'REGISTERED PROFESSIONAL'

It is appropriate to refer circumstances (relating to misconduct where there has been a client protection element) to both the DBS and the registering organisation (e.g. Nursing and Midwifery Council) in terms of their respective decision making processes. It could occur that the DBS decides, on the balance of evidence, that it is minded not to bar an individual, and in that circumstance the DBS may contact the registering organisation to confirm this

13. DUTY TO PROVIDE INFORMATION TO THE DBS IF REQUESTED

The DBS has the legal right to receive information where it asks for it from regulated activity providers and personnel suppliers. There may be occasions during an investigation when the DBS will ask for additional information to assist with its decision making. This legal right only extends to existing information that the organisation might hold. Employers are not required to undertake any additional investigations or enquiries.

14. WHO SHOULD MAKE A REFERRAL TO THE DBS?

The line manager who has raised the initial concern should contact the Practitioner Performance Manager to make the referral.

15. HOW TO MAKE A REFERRAL TO THE DBS

The DBS has introduced a single referral form process for use in relation to both children and adults. The DBS requires the referral form and all associated papers to be presented in hard copy and this will be done through a secure delivery process.

- LCHS practitioner performance will securely retain a copy of the referral form and all associated papers for future reference, as the DBS may need to refer to any specific case on a subsequent occasion.

16. RECORD KEEPING

The Head of Safeguarding will have the responsibility for ensuring the following records are maintained:

- The nature of the allegation/concern.
- Who was interviewed as part of the process, what statements/notes were taken and when
- Any records that were seen and reviewed
- What actions were considered and justification for specific decisions, including suspension and any actions taken under the LCHS Disciplinary Procedure.
- What alternative actions were explored?
- Minutes and actions of all meetings that take place.
- The above information will be held until the employee reaches the age of 79 or 6 years after death, whichever is the longer period (in accordance with the LCHS record keeping policy).

A checklist is provided in **Appendix 2**.

16.2 All records must be saved in a secure area and not on personal drives as they may need to be accessed, the folder should be restricted to certain personnel on the shared drive. They must be;

- Named appropriately.

- A retention period must be applied
- Saved in an agreed area and security measures applied
- Emails can form part of records or can be seen as individual records, if they are a critical part of the investigation, they must be securely stored in the file accordingly.

17. POST INVESTIGATION REVIEW

- Following the completion of the initial investigation, the SLO/DASM will lead a review of the case and its actions
- Any recommendations from the review will be implemented and information disseminated to the appropriate people within the organisation and local safeguarding forums.
- The member of staff must be supported throughout the investigation.
- Consideration must also be paid to supporting the member of staff through integration back into the workplace should this be appropriate post investigation.
- On-going support for the member of staff may be offered through Occupational Health.

18. REFERENCES AND ASSOCIATED LCHS POLICIES

Criminal Justice and Courts Act 2015

<http://www.legislation.gov.uk/ukpga/2015/2/contents/enacted>

Care Quality Commission. Duty of Candour 2014

<http://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-20-duty-candour>

[LCHS Bullying and Harassment Policy](#) (9th January 2018)

[LCHS Communications Policy](#) (10th January 2017)

[LCHS Disciplinary Policy](#) (29th September 2015)

[LCHS Grievance Policy](#) (9th January 2018)

[LCHS Incident Reporting Policy](#) (12th July 2016)

[LCHS Safeguarding Adults Policy](#) (10th May 2016)

[LCHS Safeguarding Children Policy and Procedures](#) (12th April 2016)

[LCHS Whistleblowing Policy](#) (14th June 2016)

Lincolnshire Safeguarding Children Board Policy and Procedure

<https://www.lincolnshire.gov.uk/LSCB>

Lincolnshire Safeguarding Adults Board Policy and Procedure

http://www.lincolnshire.gov.uk/upload/public/attachments/1012/Final_Policy_Safeguarding.pdf

Mental Capacity Act

<http://www.legislation.gov.uk/ukpga/2005/9/section/44>

Mental Health Act 2017

<http://www.legislation.gov.uk/ukpga/1983/20/section/127>

NHS Code of Conduct for Managers 2002

http://www.nhsemployers.org/~media/Employers/Documents/Recruit/Code_of_conduct_for_NHS_managers_2002.pdf

Peterborough Safeguarding Children Board Policy and Procedure

www.peterboroughlscb.org.uk/children-board/professionals/procedures

Peterborough Safeguarding Adults Board Policy and Procedure

www.safeguardingpeterborough.org.uk/adults-board/information-for-professionals/multi-agency-policies-and-procedures

The Health and Social Care Act 2014

<http://www.legislation.gov.uk/ukdsi/2014/9780111117613>

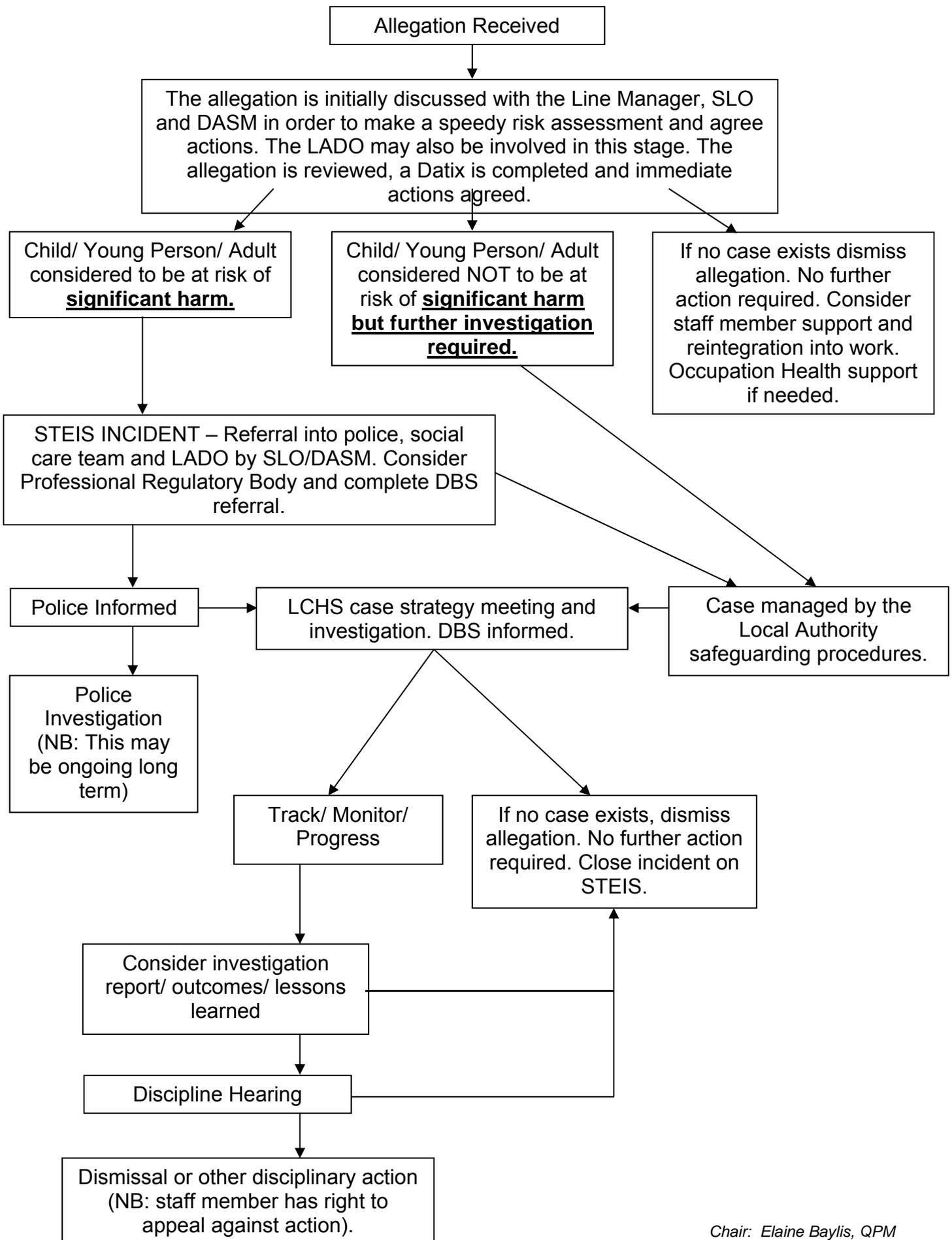
19. EQUALITY AND HEALTH INEQUALITIES ANALYSIS

Promoting equality and addressing health inequalities are at the heart of LCHS values. Throughout the development of the policies and processes cited in this document, we have:

- Given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who do/not share a relevant protected characteristic (as cited under the Equality Act 2010)
- Given regard to the need to reduce inequalities between patients in respect of access to, and outcomes from, healthcare services and in securing that services are provided in an integrated way in order to reduce health inequalities.

19.1 The general equality duty does not specify how public authorities should analyse the effect of their existing and new policies and practices on equality, but doing so is an important part of complying with the general equality duty. It is up to each organisation to choose the most effective approach for them. This standard template is designed to help LCHS staff members to comply with the general duty.

APPENDIX 1 – Process Flow Chart



APPENDIX 2 - Record keeping Checklist

The Head of Safeguarding will have the responsibility for ensuring that records are maintained throughout the investigation of the allegation/concern.

This checklist reflects the information needed, but this is not exhaustive:-

- The nature of the allegation/concern.
- Who was spoken to and when as part of the process and what statements/notes were taken.
- What records were seen and reviewed.
- Why specific decisions/actions were taken, including suspension and any actions taken under the NHS England Disciplinary Procedure.

| Investigation | Key contact | Evidence collected |
|--|---|---|
| Clarify and articulate the nature of the allegation | STEIS completed <input type="checkbox"/> LADO contacted <input type="checkbox"/> Police contacted <input type="checkbox"/> Social Care contacted <input type="checkbox"/> Human Resources contacted <input type="checkbox"/> Performance manager contacted <input type="checkbox"/> Lead Director – Safeguarding Lead | Date; Name of contact..... |
| Statements and notes | | Date Identify where documents are stored |
| Actions taken <i>Record alternatives considered and why</i> | | Date Identify where documents are stored |
| Minutes and records of all relevant meetings | | Date Identify where documents are stored |

- What alternatives to actions were explored
- Minutes and actions of all meetings that take place.
- The above information will be held until the employee reaches the age of 79 or 6 years after death, whichever is the longer period

APPENDIX 3

Contact Details

| Lincolnshire Community Health Services | | |
|--|----------------------------|--------------|
| Can be found on the Safeguarding page of the staff intranet. | | |
| Lincolnshire County Council | | |
| | Safeguarding Adults Team | 01522 782155 |
| | Emergency Duty Team | 01522 782333 |
| | Safeguarding Children Team | 01522 782111 |
| | Customer Services Centre | |

| Peterborough City Council | |
|--|--------------|
| CSC | 01733 747474 |
| EDT | 01733 234724 |
| Social Care Emergencies | 01733 234724 |
| Lscb@peterborough.gov.uk | 01733 864038 |

Monitoring Template

| Minimum requirement to be monitored | Process for monitoring e.g. audit | Responsible individuals/ group/ committee | Frequency of monitoring/audit | Responsible individuals/ group/ committee (multidisciplinary) for review of results | Responsible individuals/ group/ committee for development of action plan | Responsible individuals/ group/ committee for monitoring of action plan |
|-------------------------------------|-----------------------------------|---|-------------------------------|---|--|---|
| | | | | | | |

Equality Analysis

Name of Policy/Procedure/Function*

Allegations of Abuse Policy

Equality Analysis Carried out by:

Date:

Equality & Human rights Lead:

Director\General Manager:

***In this template the term policy\service is used as shorthand for what needs to be analysed. Policy\Service needs to be understood broadly to embrace the full range of policies, practices, activities and decisions: essentially everything we do, whether it is formally written down or whether it is informal custom and practice. This includes existing policies and any new policies under development.**

Section 1 – to be completed for all policies

| | | | | |
|--|---|---|----|--|
| A. | Briefly give an outline of the key objectives of the policy; what it's intended outcome is and who the intended beneficiaries are expected to be | This policy facilitates appropriate and coordinated responses to allegations made against all Trust employees and workers, both temporary and substantive and includes those engaged by the Trust in a non-remunerative capacity, students and volunteers | | |
| B. | Does the policy have an impact on patients, carers or staff, or the wider community that we have links with? Please give details | Yes This policy provides a fair and transparent framework for managing safeguarding allegations against staff without prejudice or implication of guilt | | |
| C. | Is there is any evidence that the policy\service relates to an area with known inequalities? Please give details | No | | |
| D. | Will/Does the implementation of the policy\service result in different impacts for protected characteristics? | No | | |
| | | Yes | No | |
| | Disability | | x | |
| | Sexual Orientation | | x | |
| | Sex | | x | |
| | Gender Reassignment | | x | |
| | Race | | x | |
| | Marriage/Civil Partnership | | x | |
| | Maternity/Pregnancy | | x | |
| | Age | | x | |
| | Religion or Belief | | x | |
| | Carers | | x | |
| | If you have answered 'Yes' to any of the questions then you are required to carry out a full Equality Analysis which should be approved by the Equality and Human Rights Lead – please go to section 2 | | | |
| The above named policy has been considered and does not require a full equality analysis | | | | |
| Equality Analysis Carried out by: | | | | |
| Date: | | | | |

Section 2

Equality analysis

| |
|---------------|
| Title: |
|---------------|

Relevant line in:

What are the intended outcomes of this work? *Include outline of objectives and function aims*

Who will be affected? *e.g. staff, patients, service users etc*

Evidence

The Government's commitment to transparency requires public bodies to be open about the information on which they base their decisions and the results. You must understand your responsibilities under the transparency agenda before completing this section of the assessment.

What evidence have you considered?

List the main sources of data, research and other sources of evidence (including full references) reviewed to determine impact on each equality group (protected characteristic). This can include national research, surveys, reports, research interviews, focus groups, pilot activity evaluations etc. If there are gaps in evidence, state what you will do to close them in the Action Plan on the last page of this template.

Disability *Consider and detail (including the source of any evidence) on attitudinal, physical and social barriers.*

Sex *Consider and detail (including the source of any evidence) on men and women (potential to link to carers below).*

Race *Consider and detail (including the source of any evidence) on difference ethnic groups, nationalities, Roma gypsies, Irish travellers, language barriers.*

Age *Consider and detail (including the source of any evidence) across age ranges on old and younger people. This can include safeguarding, consent and child welfare.*

Gender reassignment (including transgender) *Consider and detail (including the source of any evidence) on transgender and transsexual people. This can include issues such as privacy of data and harassment.*

Sexual orientation *Consider and detail (including the source of any evidence) on heterosexual people as well as lesbian, gay and bi-sexual people.*

Religion or belief *Consider and detail (including the source of any evidence) on people with different religions, beliefs or no belief.*

Pregnancy and maternity *Consider and detail (including the source of any evidence) on working arrangements, part-time working, infant caring responsibilities.*

Carers *Consider and detail (including the source of any evidence) on part-time working, shift-patterns, general caring responsibilities.*

Other identified groups *Consider and detail and include the source of any evidence on different socio-economic groups, area inequality, income, resident status (migrants) and other groups experiencing disadvantage and barriers to access.*

Engagement and involvement

Was this work subject to the requirements of the Equality Act and the NHS Act 2006 (Duty to involve)? (Y/N)

How have you engaged stakeholders in gathering evidence or testing the evidence available?

How have you engaged stakeholders in testing the policy or programme proposals?

For each engagement activity, please state who was involved, how and when they were engaged, and the key outputs:

Summary of Analysis

Considering the evidence and engagement activity you listed above, please summarise the impact of your work. Consider whether the evidence shows potential for differential impact, if so state whether adverse or positive and for which groups. How you will mitigate any negative impacts. How you will include certain protected groups in services or expand their participation in public life.

Now consider and detail below how the proposals impact on elimination of discrimination, harassment and victimisation, advance the equality of opportunity and promote good relations between groups.

Eliminate discrimination, harassment and victimisation

Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).

Advance equality of opportunity

Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).

Promote good relations between groups

Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).

What is the overall impact?

Consider whether there are different levels of access experienced, needs or experiences, whether there are barriers to engagement, are there regional variations and what is the combined impact?

Addressing the impact on equalities

Please give an outline of what broad action you or any other bodies are taking to address any inequalities identified through the evidence.

Action planning for improvement

Please give an outline of the key actions based on any gaps, challenges and opportunities you have identified. Actions to improve the policy/programmes need to be summarised (An action plan template is appended for specific action planning). Include here any general action to address specific equality issues and data gaps that need to be addressed through consultation or further research.

Please give an outline of your next steps based on the challenges and opportunities you have identified. Include here any or all of the following, based on your assessment

For the record

Name of person who carried out this assessment:

Date assessment completed:

Name of responsible Director/ General Manager:

Date assessment was signed: