Kent and Medway
NHS and Social Care Partnership Trust

Managing Allegations Against Staff and People in a Position of Trust Policy

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DOCUMENT TRACKING SHEET

Managing Allegations Against Staff and People in a Position of Trust Policy

Version	Status	Date	Issued to/approved by	Comments
2.0	**December 2022** **Policy was archived and included within the Staff Handbook – Our People Policies.** **Decision made to separate all policies and re-instate as individual polices in April 2023**			
2.1	update	02.10.23		Significant update for formal ratification
3.0	Approved		Joint Negotiating Forum/ Chief People Officer / Trust Wide Patient Safety and Mortality Review Group	Approved Assurance given to Workforce and OD Committee – Nov 23 Assurance give to TWPSMRG – Jan 24

REFERENCES

RELATED POLICIES/PROCEDURES/protocols/forms/leaflets

Safeguarding Adults Policy	
Safeguarding Children and Young People policy	
Domestic Abuse Policy	
Dignity at Work Policy	
Disciplinary Policy	
Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy and Procedure	
Personal Boundaries Policy	
Staff Support Policy	
Kent and Medway Adult Safeguarding Board Managing Concerns Around People in a Position of Trust	
Overarching Information Governance Policy	

SUMMARY OF CHANGES

Date	Author	Page	Changes (brief summary)
10/22	AD	5	Expansion on how to respond
10/22	AD	7	Response expansion
10/22	AD	10	Section 7 Supporting Staff expanded
			Appendix A expansion
10/22	AD	16	Appendix B expansion
10/22	AD	20	Appendix C planning and evidence
10/22	AD	22	Appendix D Flow Chart
01/23	AD	All	Whole policy update
07/23	AD	22	Appendix E Boundaries Example
08/23	AD	23	Appendix F Police Information Requests

CONTENTS

1 INTRODUCTION

1.1 The Kent and Medway NHS Social Care and Partnership Trust (KMPT) is committed to safeguarding and promoting the welfare of children, young people and vulnerable adults at risk of abuse or neglect

1.2 This policy applies to those allegations where there is reason to believe a child or adult is at risk of harm from a person in a position of trust is working for KMPT. This does not have to be a person directly employed and will include volunteers, guests, celebrities, students, agency workers, contractors etc. This applies to allegations which might indicate the alleged person is unsuitable to work with adults or children in their present position or in any future capacity.

1.3 This policy facilitates appropriate and coordinated responses to allegations made against KMPT staff, both temporary and substantive positions and those listed above and includes those engaged by KMPT in a non-remunerative capacity, students and volunteers. It also applies to concerns known about service users or family members that are potentially a risk to children and adults.

1.4 This policy will support KMPT to be a safer organisation where service users and staff are safeguarded and have their welfare promoted. It is important to ensure that all allegations or concerns are scrutinised and the outcome is evidence based and clear.

1.5 This policy is to support the management of allegations only; it is not to be used regarding concerns about the quality of care and practitioner complaints.

1.6 To establish the difference of allegations and concerns about the quality of care and practice or complaints, consider the following: Patient abuse can consist of neglect and acts of omission, physical, sexual, financial, psychological and institutional abuse. It can take place in any institutional or community setting among any vulnerable group. While patient abuse refers to the intentional harm of a patient. Neglect and omission can be intentional or when a patient's necessary needs are not being met by a staff member or team.

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

1.8 Adhering to this policy will ensure that the outcome is robust to prevent re-trauma with re-allegation and re-investigation at a later date.

1.9 This policy will identify the different requirements with managing allegations regarding children and adults.

1.10 This policy should be read in conjunction with related KMPT policies as highlighted in related policies.

2 WHO DOES THIS POLICY APPLY TO?

2.1 This policy applies to all members of KMPT staff regardless of their current role or place of work, including agency professionals, student and others, such as patients or guests that are in a 'Position of Trust'.

2.2 Example of a ‘Position of Trust:

2.2.1 **Child Safeguarding:** 'Position of trust' is a legal term defined in the Sexual Offences Act 2003. In section 22 it is explained as an adult “caring for, training, supervising or being in sole charge” of a child under the age of 18.

2.2.2 **Adult Safeguarding:** A Person in a Position of Trust (PiPoT) is anyone who works, care’s or volunteers with adults with care and support needs, whether paid or voluntary.

2.3 A person in a position of trust can be a person in authority and or has celebrity status, in which this position could be abused to cause harm to others.

3 PURPOSE

3.1 The purpose of this Policy is to provide a framework for managing cases where allegations are made about staff or a person in a position of trust and the allegation indicates that children, young people or adults are alleged to have suffered, or are likely to suffer, harm.

3.2 Concerns should be raised if a person in a position of trust is behaving in a way which demonstrates unsuitability for working with children, young people or adults in their present position, or in any capacity. The allegation or issue may arise either in the staff member’s/professional’s work or private life.

3.3 Examples include, but are not limited to:

3.3.1 Convicted (or being investigated) of a criminal offence against or related to children, young people or adults.

3.3.2 Failing to work collaboratively with social care agencies when issues about care of children, young people or adults for whom they have caring responsibilities are being investigated.

3.3.3 Behaving towards children, young people or adults in a manner that indicates they are unsuitable to work with children, young people or adults at risk of harm or abuse; for example, verbally/emotionally abusive, a perpetrator of domestic abuse.

3.3.4 Where an allegation or concern arises about a member of staff relating to their private life such as a perpetrator of domestic violence, sexual offences or where inadequate steps have been taken to protect vulnerable individuals from the impact of violence or abuse for example; failing to protect own children from neglect and abuse.

3.3.5 Where an allegation of abuse is made against someone closely associated with a member of staff such as a partner, member of the family or other household member; this is to ensure support, recognising the impact this may have, and enable consideration of wider safeguarding concerns for example in exploitation and child sexual abuse cases, and organised crime.

3.3.6 Personal boundaries are broken putting clients at risk of emotional, sexual, financial, and physical abuse including all forms of exploitation.

3.3.7 Abuse of power in the practitioner role causing emotional harm and or abuse; for example, inappropriate restraint, wilful neglect, inappropriate use of segregation.

3.2 The policy is focused on the management of risk and harm, robust assessment, and outcomes.

3.4 Definitions of risk and harm can be found in the Safeguarding Children and Adult Policies reflecting the Children Act1989 / 2004 and the Care Act 2014.

3.3 The intended outcomes of this policy and associated procedures are:

- That the safety and welfare of children/adults must be paramount at all times.
- That staff who are facing allegations are appropriately supported whilst investigations/enquiries are in process.
- That KMPT actively contributes to keeping children, young people, adults safe from potential abuse and neglect by a person in a position of trust.
- That KMPT evidences commitment to safeguarding children, young people, adults by ensuring compliance with safer workforce / recruitment guidance.
- That all staff clearly understand their duty to report any incident that would be considered to be potential abuse or neglect to a child, young person, adult by a colleague, a person in a position of trust.
- That roles and responsibilities are clearly defined along with clear expectations.
- That KMPT's staff will be informed of the complexities of the process and have realistic expectations about the timeframes within which the allegation is managed.
- That the process is transparent.
- The alleged perpetrator and alleged victim's voice and opinions are evident with in the investigation.
- The process has a clear outcome from each type of investigation undertaken ie HR, Safeguarding and SI.
- KMPT adhere to the law in reporting criminal case concern.

3.5 **Safer Recruitment:**

3.5.1 As an NHS service provider KMPT will take reasonable steps in-line with recruitment and DBS policies to prevent unsuitable people obtaining employment in the NHS. Please refer to the Recruitment Policy. This policy relates to staff that are employed.

4 DUTIES

4.1 **Children and Young People:**

4.1.1 Under Section 11 of the Children Act (2004), provider services are required to have clear policies in line with those of Local Safeguarding Children Partnerships (LSCP), for dealing with allegations against people who work with children (HM Govt, 2015). Such policies must make a clear distinction between an allegation, a concern about the quality of care or practice, or a complaint.

4.1.2 All staff allegations of child abuse will be investigated by KMPT, and this will be overseen by the Local Authority Designated Officer (LADO) who will feed into the process. During these investigations it is the welfare of the child that is of paramount importance. Employers and staff should therefore be mindful that there will be occasions when it will feel that the 'balance' is towards the child rather than the member of staff about whom the allegations are being made, and therefore the staff member should be appropriately informed and supported with regular contact and supervision.

4.2 **Adults:**

4.2.1 Under the Care Act (2014), Provider services are required to evidence robust policies and procedures to the Local Safeguarding Adults Board (LSAB), for dealing with allegations against people who work with adults.

4.2.2 All allegations of adult abuse or neglect will be referred to the local authority through our usual safeguarding procedures in accordance with Kent and Medway's inter-agency procedures. During these enquiries it is the welfare of the adult at risk that is of paramount importance. Employers and staff will need to be mindful that it may feel that the 'balance' is towards the adult at risk rather than the member of staff about whom the allegations are being made, and therefore the staff member will need to be appropriately informed and supported with regular contact and supervision.

4.2.3 Allegations that have not identified actual abuse or neglect, including historical concerns may not be subject to a Section 42 enquiry, however these will require robust internal investigations.

5 HOW TO RESPOND:

5.1 It is important that accountable, non-judgemental actions are taken immediately, to ensure a safe yet supportive working culture that is fair and responsive. There are different processes of response in regard to children and adults, these include Employee Relations (ER) processes and Criminal and Local Authority and can be a combination of these. The Serious Incident and Root Cause Analysis (RCA) process may also be followed, however there must be no delay in the other individual investigations.

5.2 Key Points:

- The safety of the patient/victim and others, must be assured and actions taken to do so and all actions thoroughly recorded.
- Any physical injury or reported assault must be responded too with an urgent medical review and a Body Map should be completed.
- Any staff allegations of assault, rape or sexual assault must be managed with compassion and reported to the police, any evidence must be secured/isolated pending police advice. It is best practice to seek consent however any potential crime must be reported to the police, this is compulsory.
- For examples of type of evidence please see Appendices.

5.3 **INPHASE: For all allegations made against staff**

5.3.1 The Inphase system must be used for all allegations made against staff, this will ensure that it is reported appropriately. This process enables key professionals to support the process and ensure robust oversight that is both safeguarding and support focused. There are two parts to safeguarding on Inphase, non-incident and Incident. All allegations require both safeguarding and incident pages to be completed

5.3.2 To ensure that allegations are managed confidentially the following process must be followed:

5.3.3 Report the incident on Inphase, click the safeguarding and Incident tab, but do not add the details of the person whom the allegation is against. Once the record is submitted, make a note of the Inphase record ID, and contact the Inphase Team who can discreetly add the staff details. You can either do this via the telephone numbers shown on the top of the Inphase incident form (office hours) or by e-mailing the Inphase Administrator inbox (kmpt.inphase.support@nhs.net). You should then share with the Inphase team the incident record ID and the details of the person whom the allegation is against. The Inphase team will need their name, job title and whether or not they are a member of NHS Professionals (NHSP) or other agency and their line manager details. The Inphase Team will then be able to add the details to the incident record in a way that it can only be seen by authorised members of staff. This will ensure that a high level of confidentiality is maintained.

5.3.4 Please ensure that the Inphase ID for the allegation includes any evidence identified, both to discount or uphold.

5.3.5 Remember, there are two parts to Safeguarding on Inphase, non-incident and Incident. All allegations **require both safeguarding and incident pages** to be completed.

5.3.6 Inphase has the mechanism to inform key professionals: Chief Nurse, Heads of Nursing and Quality, ER Advisor, Head of Patient Safety, Head of Safeguarding and other key professionals can be identified as appropriate.

5.4 **Children and young people:**

5.4.1 The Local Authority Designated Officer (LADO) works within Children's Services and gives advice and guidance to employers, organisations and other individuals who have concerns about the behaviour of an adult who works with children and young people. Included in this group are volunteers, agency staff and foster carers as well as people who are in a position of trust and have regular contact with children such as religious leaders, recreational group leaders, political figures or school governors.

5.4.2 The role of the LADO is set out in the 'Working Together to Safeguard Children (2018) Statutory Guidance, and is governed by the Local Authorities duties under Section 11 of the Children Act (1989 / 2004). Managing safeguarding allegations against staff is required under the Children Act (1989 /2004).

5.5 **Actions to be taken:**

5.5.1 The LADO must be contacted within one working day (101 or 999 for emergencies) in respect of all cases in which it is alleged that a person who works with children or is within the children's workforce has met the **harm threshold, which is:**

- behaved in a way that has harmed, or may have harmed a child;
- possibly committed a criminal offence against or related to a child; or
- behaved towards a child or children in a way that indicates they may pose a risk of harm.

5.6 **There may be up to four strands in the consideration of an allegation:**

- a police investigation of a possible criminal offence;
- enquiries and assessment by children's social care about whether a child/adult is in need of protection or in need of services;
- The case will be reported on strategic Executive Information System (StEIS)
- Consideration by the employer of disciplinary action in respect of the individual.

5.7 **The LADO is responsible for:**

- Providing advice, information and guidance to employers and voluntary organisations around allegations and concerns regarding paid and unpaid workers.
- Managing and overseeing individual cases from all partner agencies.
- Ensuring the child's voice and lived experience is heard and that they are safeguarded.
- Ensuring there is a consistent, fair and thorough process for all adults working with children and young people against whom an allegation is made.
- Monitoring the progress of cases to ensure they are dealt with as quickly as possible.
- Recommending a referral (children's social care) and chairing the strategy or position of trust meeting in cases where the allegation requires investigation by police and/or social care.

5.8 The LADO is involved from the initial phase of the allegation through to the conclusion of the case. The LADO is available to discuss any concerns and to assist in deciding whether a referral is needed and/or take any immediate management action to protect a child.

5.9 If you are unsure if a case meets the criteria for the county LADO service you can call and request to speak with the LADO Enquiries Officer, who can discuss the situation and advise on next steps. This does not require you to share the member of staff or child's details and is not a referral.

5.10 LADO referrals can be found on the local authority webpage for the area in which they have statutory authority.

5.11 **Actions for managing allegations regarding Children & Young People:**

Non KMPT staff i.e. client, service user, carers, guest's etc.

- Refer into children social services
- Complete a LADO referral (within 24 hours)
- Upload to RiO if a service user/client
- Complete INPHASE
- Keep information documented securely in a secure file for evidential purposes.
- Send a copy of the LADO and children social care referral to the safeguarding team.

KMPT Staff members including NHSP/ agency staff:

- Speak to your manager. The allegation must be kept highly confidential and, on a need, to know basis. Please ensure that all discussions are documented as part of contemporaneous, open and transparent record keeping. Any emails which include agreed actions and discussions can be uploaded onto the.
- An INPHASE must be raised with the safeguarding tab clicked and the line manager, Human Resources (HR) Advisor, Matron/Head of Service (or similar position) and Chief Nurse included.
- The line manager must take the lead and arrange an urgent meeting with HR and include the Matron/Head of Service (or similar position) regarding the concerns to develop a plan (see appendix A).
    - The plan will include identifying the lead investigator (a senior experienced manager that does not have line duty responsibility for the staff member). Consideration should be given to allocating outside of the Care Group/Speciality/Place for concerns relating to physical abuse, sexual abuse and neglect to prevent unconscious bias and potential challenge.
- The identified lead investigator will automatically become the safeguarding investigator if required. This will prevent duplication and ensure a thorough confidential process.
- All child allegations require a referral into the Local Authority Designated Officer (LADO) Kent, Medway or other Local Authority within one working day/24 hours.
- If abuse is suspected or has occurred a referral into Children's Social Care must be completed **in addition** to the LADO referral.
- If a criminal offence has occurred or is suspected the police must be informed and the crime report number documented.
- If an abuse has not occurred however there are still concerns a plan must be developed which would include: HR and the investigating manager to consider the risks to children, other's and the organisation. The plan can include liaison with the Local Authority Designated Officer, the safeguarding team and the police.
- It may be necessary for client facing roles to be changed temporarily, or for supervised practice until the outcome of the investigation.

- All actions must be captured and documented (Appendix A)
- Unless unsafe to do so, or advised by the police, the staff member should be kept informed of the investigation and time frames, by their manager.
- It may be necessary post investigation for HR to refer to the Disclosure and Barring Service (DBS) and/or the appropriate Professional/Regulatory Body.
- All investigation outcomes must be shared with HR and the Director /Deputy of the Service/Place, and the Head of Nursing and Quality for Place, prior to finalisation for formal sign off.
- The final fact-find/investigation report must be discussed with alleged staff member by HR and the lead investigator. If a full copy of the report is requested by the alleged staff member, this must be done so via the Information Governance and Records Management Department to ensure that a review of third party data is undertaken prior to release.
- The sharing of the investigation outcomes that have not been led or managed with the local authority, or the police must be agreed by the Head of Information Governance and Records Management and either the Chief Nurse or Deputy Director of Nursing and Practice
- A formal outcome letter is needed following any investigation/allegation that is filed on to the staff records.

5.12 **Actions for managing allegations regarding Adults:**

Actions to follow for Non KMPT Staff i.e. patient, carer, guest.

- Raise an Inphase
- Contact the KMPT Safeguarding Team.
- Complete a safeguarding referral if abuse has occurred or is suspected
- Contact the police on 101 if a crime is suspected or has occurred. Call 999 if there is an immediate risk of harm. Follow advice regarding evidence. If in doubt and it is safe to do so isolate (secure the area) until advised otherwise. Leadership judgement may be required as part of defensible decision making and service delivery proportionality ie what is the allegation, what are the risks to the service.
- Keep information documented securely within the client records (ticking third party information), for non-patients i.e. visitors, carer; keep information in a secure file for evidential purposes.

Actions relating to KMPT Staff, including NHSP/agency staff:

- Speak to your manager, this must be kept highly confidential. If the manager is the person of concern, contact the Head of Nursing and Quality for your area, or the safeguarding team.
- An Inphase report must be raised with the safeguarding and incident tab clicked, and the line manager, HR Advisor, Service Manager/Head of Nursing and Quality for Place, and Chief Nurse included.
- The manager is responsible for contacting HR to arrange an urgent meeting, this can include safeguarding and patient safety to support and develop a work plan based on risk analysis (see appendix A).

- If an abuse has occurred or is suspected a referral into Social Care (safeguarding) must be considered in line with the Care Act 2014.
- It is important to differentiate that a Care Act 42 statutory enquiry is not the same as an internal fact find.
- The KMPT internal identified lead investigator will automatically become the safeguarding investigator, to prevent duplication and ensure a thorough confidential process. It is advisable that the allocated investigator and HR work with the local authority when a Section 42 has been initiated to prevent duplication and missed information. They should be completed simultaneously; the Care Act Section 42 cannot be delayed. It is important to note that the threshold and terms of the investigation for a Section 42 enquiry is different from the internal fact find.
- For allegations against Agency and Bank staff such as NHSP, the agency link professional ie NHSP Clinical Lead for Risk & Improvement/Agency lead must be informed, and local authority social care details shared as appropriate, the name of this person must be included into the Inphase.
- Contact the police on 101 if a crime is suspected or has occurred. Call 999 if there is an immediate risk of harm. Follow advice regarding evidence. If in doubt and it is safe to do so isolate (secure the area) until advised otherwise. Leadership judgement may be required as part of defensible decision making and service delivery proportionality
- If abuse has not occurred but concerns remain, a plan must be developed which would include: HR and the investigating manager; all plans must consider the risk to adults, patient safety, other's and the organisation. This could include; liaison with the safeguarding team and consideration of police contact.
- The staff member at the centre of the concerns must be supported, informed of the plan and what will happen, including next steps. These may include supervised practice, or temporary role change, as appropriate and proportionate to the allegation.
- All actions must be captured and documented (Appendix A)
- It may be necessary post investigation for HR to refer to the Disclosure and Barring Service (DBS) and/or the appropriate Professional/Regulatory Body.
- All investigation outcomes must have senior sign off, i.e. Deputy Director /Director of Place/Head of Nursing and Quality, for the respective area prior to finalisation for formal sign off.
- The fact-find/investigation report must be discussed with the alleged staff member by the investigator and line manager, unless unsafe to do so. If a full copy of the report is requested by the alleged staff member, this must be done so via the Information Governance and Records Management Department to ensure that a review of third-party data is undertaken prior to release.
- If a Section 42 report has been completed the KMPT investigating Officer and the staff member's line manager should discuss the report and outcome, unless advised otherwise by the police or social care.
- Following any investigation/allegation; an outcome letter must be issued to the staff member and a copy filed on to the staff records.

- The sharing of the investigation outcomes that have not been led or managed with the local authority, or the police must be agreed by the Head of Information Governance and either the Chief Nurse or Deputy Director of Nursing and Practice

5.13 **Staff allegations, against another staff member**

5.13.1 All allegations must be treated seriously with the above process followed; the staff member sharing the concerns must be advised that they will be identified as the source of the allegation to ensure fair challenge from the alleged perpetrator unless unsafe to do so due to wider risks. This will also prevent/ reduce false allegations, whilst ensuring that staff are supported in reporting genuine safeguarding concerns. Mediation and supervision may support staff in the investigation/post investigation stages. If there are concerns that a senior, or manager is a risk to patients, and the staff member is concerned due to this, the safeguarding team, and the Freedom to Speak up guardian can be contacted to discuss and support, in addition to executive management team.

5.13.2 Safeguarding is everybody's responsibility. Any recourse or retaliatory behaviour will be dealt with under professional standards to ensure people are confident to report neglect and abuse. Failing to act or report a known concern is a failure of a duty of care, and as such staff may be held to account in HR, criminal or civil proceedings through omission to act.

5.14 **Human Resource Responsibilities:**

5.14.1 HR will support and contribute to all concerns relating to employed, bank, agency and contracted staff.

- Provide the investigator with support with a named HR/Employee Relations lead
- Ensure that all relevant HR/Employee Relations legislation is adhered to at every stage of the investigation.
- Ensure the safeguarding team is accessed for advice and overview as needed.
- Ensure that the alleged staff member is supported appropriately.
- Ensure the management of actions ie re-deployment are in line with employment legislation.
- Ensure that the voice of the staff member is evident including their right to respond, unless the police of social care have advised otherwise.
- Ensure that all professional body actions have been completed, with evidence capture and a clear outcome.
- Be the holders of all allegations against staff concerns to ensure a central point of information (held within one highly secure file).
- Ensure that the internal investigation is prioritised for a safe and timely outcome.

5.15 **Safeguarding Team Responsibilities:**

5.15.1 Safeguarding will lead on all allegations for non KMPT staff i.e. guests, carer and volunteers.

- Provide advice and support to the manager via case review and consultation.
- Ensure that all allegations against staff are managed appropriately; are audible, and that relevant agencies are referred into and involvement such as social care and the police.
- To securely store all allegations for non-staff members.
- It is important to note that the outcome of a referral or investigation in regard to a person that is not employed by KMPT may not be shared by the Local Authority and or police. The duty is therefore to share information appropriately.

6 WHY DO WE NEED TO SHARE INFORMATION?

6.1 Organisations need to share safeguarding information with the right people at the right time to:

- prevent death or serious harm
- coordinate effective and efficient responses
- enable early interventions to prevent the escalation of risk
- prevent abuse and harm that may increase the need for care and support
- maintain and improve good practice in safeguarding adults
- reveal patterns of abuse that were previously undetected and that could identify
- others at risk of abuse
- identify low-level concerns that may reveal people at risk of abuse
- help people to access the right kind of support to reduce risk and promote wellbeing
- help identify people who may pose a risk to others and, where possible, work to reduce offending behaviour
- reduce organisational risk

6.2 Each NHS organisation has appointed a Data Protection Officer, who is responsible for safeguarding information and ensuring good practices are implemented.

6.3 Under Section115 Crime and Disorder Act (1998) a worker has the power (not a duty) to share information if s/he thinks a crime has been, or could be committed in the future. This information may be shared with personnel from:

- Local Authority
- Health Trusts
- Police
- Probation

6.4 Any information sharing must be done so in line with Information Governance and Records Management policies and procedures. For further support and guidance please contact the Information Governance and Records Management Department, prior to sharing information, on KMPT.infoaccess@nhs.net.

7 SUPPORTING STAFF

7.1 All staff must be treated with respect. This process of investigation must not apportion blame. This process is to protect staff, clients and children to prevent harm. This must be a supportive process to ensure safe and evidenced based outcomes. Staff have the right to confidentiality, which includes justified, auditable and proportionate and necessary information sharing.

7.2 All staff that have had an allegation made against them must be informed and supported. Staff report to feeling less traumatised when the allegation has been shared. There must be consideration for the balance of openness and what to share in regard to the allegation/s, for example any staff member that is alleged to be part of a suspected paedophile group, taking or sharing indecent images; and exploitation would require police action and the staff member must not to be informed due to risk of evidence deletion or disruption, or hindering a police investigation.

7.3 For support with decision making contact the safeguarding team and police (if applicable).

7.4 Staff must be offered support with supervision, contact, and signposting to staff services, and must be given the opportunity to express their views; whether or not they are informed of the type of allegation. There line manager should take the lead in ensuring this support whilst the investigation is in motion, and the investigator nominated should be impartial to the investigation and of senior authority.

7.5 All staff must be given a formal investigation and outcome letter, unless there is a criminal /active investigation. The letter if possible should be sent via an attachment to NHS.net, if it is not possible to send this to a secure NHS.net email address please ensure that this is sent securely using [secure].

7.6 If staff need to have their role temporally changed or require supervision to enable proportionality in the balance of safeguarding and service delivery, whilst an investigation is ongoing, they must be supported in doing so, with negotiations with the service manager and HR.

7.7 Staff must have the opportunity to challenge any plans via HR and be reassured that this is a standard procedure.

7.8 The report must be verbally shared by the Investigator and line manager with the alleged staff member to enable discussion, reflection and actions.

7.9 All potential evidence/witness statement must be gathered prior to conclusion for a safe robust outcome.

7.10 **The maximum time frame for investigation to completion must not exceed 10 working days without a formal review, unless there is police involvement in which case guidance will need to be sought.**

8 HR DISCIPLINARY PROCESSES:

8.1 The disciplinary process only applies to KMPT staff and may be needed during, or following an investigation;

8.2 **Fact Finding and Learning**

8.2.1 This is an attempt to understand a situation and prevent it from escalating without having to use the formal section of the disciplinary procedure. It is important that staff are not subject to formal disciplinary procedures unless proportionate in order to protect staff from undue pressures at work. Therefore, initial fact finding and the identification of any learning should always be the first stage of the process of dealing with potential disciplinary issues. Where improvement is required staff must be given guidelines.

8.2.2 A Fact Find must include a system wide approach, to ensure the outcome if fact and evidenced based, safe and fair. This means capturing any contributing factors that will support with a robust outcome, such as the staff members training and skills, level of supervision, role and responsibilities, staffing numbers, accessible equipment, care plan review etc.

8.2.3 If the concern escalates or is found to be more serious than originally reported, the matter may be escalated to the formal disciplinary procedure with the advice of the HR/Employee Relations Department.

8.3 **Formal HR/Employee Relations Action**

8.3.1 **Investigation**

At all stages of the formal procedure, a fair and objective investigation must take place. The allegations against staff must be clear. The staff member must be informed of the allegations in writing in advance of any investigatory meeting with them. An investigating officer should be of senior grade to the staff member and have no prior involvement with the matter. Advice should be sought from the Relations / HR department when appointing an investigator.

8.4 **HR Storage of information:**

8.4.1 All information will be stored securely within the staff members personnel file once the investigation is complete. If the staff member moves to another job/organisation unfounded allegations (i.e. not upheld) will not be shared.

9 IMPLEMENTATION INCLUDING TRAINING AND AWARENESS

9.1 The management of allegations against staff or others including the LADO function is discussed within KMPT safeguarding training, and more in-depth information can be accessed the ‘LADO need to Know training’ via the Kent Safeguarding Multi Agency Partnership SCMP website.

10 STAKEHOLDER, CARER AND USER INVOLVEMENT

10.1 This policy has been distributed for consultation to Service Leads and Social Care and through the Trust governance procedures and process.

11 EQUALITY IMPACT ASSESSMENT SUMMARY

11.1 This policy applies to all. The Equality Act 2010 places a statutory duty on public bodies to have due regard in the exercise of their functions. The duty also requires public bodies to consider how the decisions they make, and the services they deliver, affect people who share equality protected characteristics and those who do not. KMPT will continue with the culture of conducting Equality Impact Assessment to ensure a good understanding of the effect of our policies and practices on people within different protected groups. This will facilitate the identification of areas of concerns and may develop practical courses of action to mitigate negative consequences or to promote positive ones.

12 HUMAN RIGHTS

12.1 Since 2nd October 2000 all existing legislation has to be interpreted in the light of the Human Rights Act 1998. These refer in particular to individual rights covered by:

- Article 3 (right not to be subjected to torture, inhuman or degrading treatment or punishment)
- Article 5 (right to liberty and security save for the lawful detention of persons of unsound mind)
- Article 8 (respect for private and family life)
- Article 14 (prohibition of discrimination).

12.2 To ensure that the enactment of this policy is consistent with the Human Rights Act 1998, staff will ensure that any decisions likely to interfere with the above rights are carefully documented, giving supporting reasons, and appropriate safeguarding evident.

13 MONITORING COMPLIANCE WITH AND EFFECTIVENESS OF THIS DOCUMENT

13.1 Human Resource will monitor the effectiveness of the policy with feedback from staff and managers involved in the allegations process.

APPENDIX A RISK ASSESSMENT

Managing Allegations against Staff

Analysis and Final Outcome

***To be completed by Allocated Investigator and Named HR lead within 10 working days, a formal review will be required at day 10 if not completed, with a rationale evident. Ie police etc**

Full name of staff member: DOB:

Job title:

Area of work: Client facing: Yes / No

Brief Description of role/duties:

Named HR Advisor: …….

Name of Manager ……
(whom is responsible for ensuring the staff member is supported)

Named KMPT Investigator: ……
(whom is also responsible for completing the section 42 report)

Concerns/Allegation:
I.e.: who raised the concern, location, witnesses, type of abuse, concern/scenario, who has been abused, what has been disclosed etc

What action has been taken to safeguard and support the alleged victim?
Ie: Removing the staff member, providing a safe space to talk, updating the care plan and risk assessment, police contact, safeguarding referral, contacting the family, working in pairs, medical review, gender specific care, what do they need and want etc.

Initial urgent key professional meeting outcome.

Capture who was present, what was discussed, what was agreed

(this meeting should include the *Line manager, service lead, & HR/ER partner. Safeguarding and Patient Safety can also be utilised for support)*

Investigation/Findings

What happened, evidence, witnesses, contextual information ie wider issues, how, when, why? Events leading up to the allegation, systems, seek expert opinion. Talk to the patient and the staff member, review CCTV etc.

Analysis /Conclusion: Please state clearly in the conclusion whether upheld, discounted, partially upheld or other ie boundaries, or poor care related with narrative.

Agreed Action Plan: (clear, concise actions)

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Professional Body informed:	Yes/No	**Date**:
Disclosing and Baring Service informed:	Yes/No	**Date**:
Other information:		

Final Outcome: confirmation of action taken etc

Outcome agreed and signed by the Deputy/Director of Service/Head of Nursing

Name and Signature: Date:

Outcome agreed and signed by the HR Lead:

Print Name and Signature: Date:

This document once completed must be held on the staff members personal record in HR/ER central file.
This document once completed should be updated to the Inphase system

APPENDIX B SHARING INFORMATION WITH THE STAFF MEMBER

Allegations made against staff can have a significant impact on the staff member. Staff must be treated with respect and kindness through the process. Effective safeguarding and respect for the alleged victim is facilitated with clear actions to safeguard, that are responsive and proportionate, with policy adherence.

The safeguarding of staff during this process must be with communication and support. Staff that have had allegations made against them have reported that they would have felt more empowered to challenged or accept the process if they had been advised of the nature of allegation. With this in mind staff should be informed of the allegation and type, for fair challenge and to prevent the unknown exacerbating the situation; however there are exceptions, which are listed below.

If the following abuses are suspected or reported, the alleged staff member must not be informed to prevent evidence deletion, disruption of the police investigation or increase risk of harm:

- Any concerns regarding indecent images
- Any concerns regarding child sexual abuse
- Any slavery concerns
- Any human trafficking concerns

If in doubt, speak to the safeguarding team for advice.

Discussion

When the line manager can discuss (which should be as soon as possible) the concern with the staff member, it’s a good idea for them to explain:

- why they're carrying out an investigation
- who will be carrying it out
- what they're going to do
- that they'll need to talk to any witnesses
- how long it could take
- what will happen next, for example a meeting
  that everything will be kept confidential

APPENDIX C THE INVESTIGATION: PLANNING

The line manager and identified HR/ER lead should start by making an investigation plan. This can include:

- What needs to be investigated
- Clarifying and ensuring the patient/victims are safe
- Identify who is carrying out the investigation
- Who has or is calling the police, making a referral to social care (as needed)
- Identifying anyone who needs to be spoken with ('witnesses')
- Any sources of evidence, for example work records, emails or CCTV recordings
- Any time limits, for example CCTV footage being deleted or staff going on leave
- Timeframes
- Policies or workplace guidelines to follow
- Whether the person investigating is expected to give recommendations at the end of the investigation
- Who will monitor actions and keep the investigation on track
- Setting out the importance of confidentiality
- Any other relevant points or information
- Who is advising the alleged staff member and supporting
- Planning a formal review date in advance if not concluded within 10 working days.

A clear plan can help to: make the investigation as robust, quick and easy as possible
make clear exactly what needs to be done
make sure the process is full and fair
avoid negative effects on patients, staff or the organisation

Evidence Collection

The person investigating should obtain all the information they reasonably can and need. They should consider what physical evidence is needed based on: what's laid out in the investigation plan, what sources of information they can use and any time limits, for example records getting deleted

More evidence might come to light as the investigation goes on, so the person investigating should allow for this.

Types of physical evidence could include**:** Emails, paperwork, receipts, access of RiO records, phone records, CCTV recordings, Duty Rota's, RiO records, blood stains medical records, hand - over documents, Physical injury/Body Map, damage to objects/environment, bed sheets, clothing etc.

Please note that it may not always be necessary for copies of information to be taken and therefore, the viewing of information such as CCTV can be facilitated by the Information Governance and Records

The person investigating must consider the ways they can get information and:

- Follow the law (for example, on data protection or employment contracts)
- If a crime is alleged, the police must be contacted to ensure there is not conflict with any criminal investigation and evidence is not disrupted.

  The KMPT IG team can support and provide further guidance to ensure that safe information sharing is undertaken.

APPENDIX D MANAGING STAFF ALLEGATIONS FLOW CHART

Are you concerned that an adult/patient is experiencing abuse or neglect by a staff member or team?
Are you concerned about a staff members behaviour towards a patient/s and or others?
Has a disclosure been made against a staff member?

Examples of such concerns could relate to a staff member or person in a position of trust, who has:
- behaved in a way that has harmed, or may have harmed an adult or child
- possibly committed a criminal offence against, or related to, an adult or child
- behaved towards an adult or child in a way that indicates they may pose a risk of harm to adults with care and support needs and or children
- their conduct has raised concern as to their suitability to act in a position of trust

Action

1. Speak to your manager and share concerns. If the manager is the person of concern, contact the service lead or safeguarding.
2. If a potential crime/criminal offence has been committed the police must be notified.
3. A referral to the local authority may be required, see Adult and Children safeguarding policy/chart below. INPHASE must be completed by the reporter/manager. *Please see the Allegations policy regarding how to do this to maintain confidentiality. The incident will be discussed in the Serious Incident and Mortality Panel for consider STEIS reporting*
4. The manager is responsible for contacting the HR team, and arranging an urgent meeting including HR, and the Head of Service/or similar position. Patient safety and safeguarding can be invited to support discussions.
5. A suitably experienced manager should be allocated as the Internal Investigator to work with HR to produce the Fact Find/ Report. This person will automatically be the allocated IO if a Section 42 inquiry is needed. Depending on the nature of the allegation and to prevent any unconscious bias, it may be advisable to allocate outside of the Care Group/Speciality see body of policy. The investigation must be prioritised and completed timely as dictated in the allegations policy
- The victim/patient & alleged staff member must be offered support and kept updated with the investigation unless advised otherwise i.e. by police or social care. This should be not be the investigating officer.
6. The voice of the patient and alleged staff member, witness statements, CCTV (if deemed appropriate by the IG&RM Department) and professional expertise should form the foundation of the investigation. The investigation must be fact based. *See guidance to complete an investigation*
7. The investigation must be signed off by the line manager, HR and the Deputy or Director of Service/Head of Nursing prior to formal completion
8. The staff member must be notified of the outcome and the report discussed with the staff member by the report author and manager.
9. The line manager with the support from HR are responsible for ensuring all actions are completed.
10. The investigation outcome must be kept securely in the HR file, for access as appropriate, i.e. referencing and uploaded to Inphase.

Please refer to the Safeguarding Children and Young Persons Policy, the Safeguarding Adults Policy and Deciding if you need to raise a Safeguarding Adult Concern to the Local Authority Flow chart.

APPENDIX E PROFESSIONAL BOUNDARIES

'Professional boundaries are defined as limits that protect the space between the professional's power and the patient's vulnerability'.

Safeguarding means **protecting a citizen's health, wellbeing and human rights**; enabling them to live free from harm, abuse and neglect. It is an integral part of providing high-quality health care. All staff, whether they work in a hospital, or in providing community care, and whether they are employed by a public sector, private, or not-for-profit organisation, have a responsibility to safeguard; this includes safeguarding people from an abuse of power, sexual abuse, financial abuse and exploitation.

Professional Boundaries and Allegations of Abuse are not the same, however when professional boundaries are breached, adults and children may need safeguarding. Please refer to the Boundaries Policy.

People who use our services are at the centre of everything we do. Whilst it is recognised that staff must establish a rapport with people who use our services, their relatives and carers they are also responsible for establishing and maintaining appropriate boundaries between themselves and those who use our services. It is essential that all interactions between people who use our services and staff are viewed and maintained in terms of a professional relationship.

The Trust values rely on the professional integrity of objective relationships between patient and staff. To ensure that Trust business is conducted / perceived to be conducted in a professional and proper manner.

It is the responsibility of all staff to uphold the standards. If staff are unsure about a situation, incident or relationship which may be covered by this policy they are strongly advised to seek advice from their Line Manager, other Senior Manager, or the Workforce Department.

Therapeutic Relationship - A therapeutic relationship is a professional relationship between a person using Trust services and worker which puts the person's care needs first. The worker has a responsibility for ensuring that objectivity and transparency is achieved at all times. It is important to distinguish between being approachable and having a friendly manner towards a person using Trust services and becoming a friend / more than a friend, which is a personal relationship falling outside the expected and appropriate scope of a working relationship.

Boundary - This is the 'line' between a professional and personal relationship. If this is crossed the relationship moves from being objective to subjective.

1: For example, intrapersonal boundaries involve decisions about how much of our personal beliefs to disclose about ourselves in a work setting and how much to express ourselves and discuss personal matters.

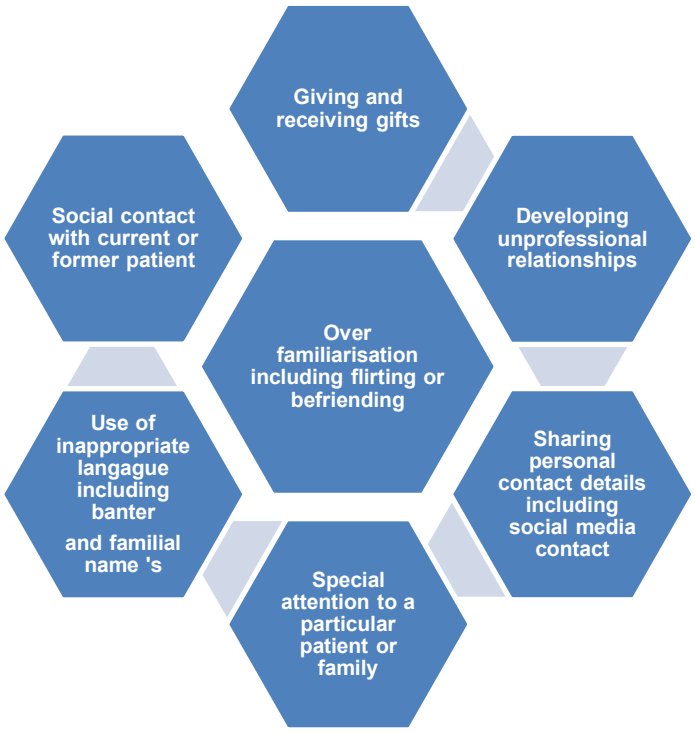
2: In therapeutic sessions workers may be asked about issues of belief, circumstances and values and each situation requires a carefully thought out limit about what is an appropriate response. When the 'line' between a professional and personal relationship is crossed the relationship moves from being focused on the discharge of a professional duty to being something more akin to a personal relationship.

Power Imbalance - An imbalance of power is often a feature in the healthcare professional / care user relationship, although this may not be explicit. People using our services are often vulnerable when they require healthcare. They may be in crisis, confused about themselves and overtly mentally unwell. Healthcare professionals are in a position of power

because they have access to resources and knowledge about the person using Trust services not available to them in their ordinary roles as citizens. They may have access to and control of resources that the person using Trust service's needs.

It is the responsibility of workers to be aware of the potential for an imbalance of power and to maintain professional boundaries to protect themselves and the person using Trust services. This involves being authentic and empathetic, whilst not giving personal information, nor behaving in a way which encourages belief in a special, exclusive or pseudo-personal relationship.

Examples of Boundary Breaches



Maintaining Professional Boundaries will safeguard both staff and patient's

APPENDIX F SHARING INFORMATION WITH THE POLICE

In the first instance, KMPT staff must report potential crimes directly to the police, staff have a duty to ensure the information provided is accurate, proportionate and thorough. Any subsequent information requests made by the police should be done via the Information Governance and Records Management Department to ensure that only relevant and necessary information is being shared at all times.

Similar to information sharing with Local Authorities, we are sharing as part of our professional duty to safeguarding patients and staff from abuse following both the Care Act 2014, and the Criminal Justice Act 1988 and the Crime and Disorder Act 1998.

It is advisable to contact the police to invite them along to the discussions with staff so they can contribute to the investigation and consider from a criminal perspective.

Statement Requests

- If the police are unable to attend a joint meeting with our staff and request a copy of discussion, this should be shared via the IG department as part of our duty in working together.

- The alleged perpetrator statement/discussion must be captured by the police and any request for their statement/discussion shared via IG.

Rights

The police only read rights (Miranda) in the process of caution and arrest when the police may question the person suspected of a crime.

All information can be used in a court of law; all information requests relating to information held by KMPT should be requested via the Information Governance and Records Management Department.

Information sharing must follow a legal framework, it must be justified, auditable, proportionate, accurate and necessary.

If in doubt contact the safeguarding or Information Governance and Records Management Department.