

**Procedures and Guidance**

**in Allegation Management**

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**1. Overview**

1.1 These procedures are specific to Rochdale and should be used in conjunction with the RBSAB Multi agency safeguarding policies and procedures.

1.2 It is essential that any allegation of abuse made against a professional who works with adults with care and support needs or other members of staff or volunteers in any setting is dealt with fairly, quickly, and consistently, in a way that provides effective protection for the adult or adults and at the same time supports the person who is the subject of the allegation.

1.3 Professionals who work with adults with care and support needs need to be aware that inappropriate behaviour in their private life may affect their suitability to work with adults or children. This should be incorporated into their employer’s codes of conduct.

1.4 AML is the abbreviation for Allegation Management Lead. In Rochdale the AML can be contacted on email (aml@rochdale.gov.uk).

1.5 What is an Allegation?

*“A suspicion or concern that a trusted individual within an organisation or establishment has mistreated or abused an adult with care and support needs or may be about to do so”*

**2. Using the Guidance**

Key Roles in Managing Allegations

2.1 The guidance for ‘managing allegations against people in a position of trust’ is contained

 within section 14 of the Care and Support Statutory Guidance of the Care Act 2014.

Other relevant legislation includes: General Data Protection Regulations (GDPR); Human Rights Act 1998 and employment legislation.

2.2 Role of the AML

The AML has the *overall* responsibility to:

* Provide advice and guidance to Safeguarding Leads, Senior Managers, Employers, and Voluntary Organisations who oversee those professionals that work with adults with care and support needs.
* Liaise with the police
* Monitor the progress of all cases to ensure that they are dealt with as quickly and consistently as possible through the use of a fair and thorough process.
* Provide management and oversight of individual cases to ensure the progress of an allegation is thorough, fair and dealt with in a timely manner.
* Responsible for initial considerations of allegations
* Responsible for chairing Allegation Management Strategy Meetings and guiding other Safeguarding Adult Manager’s to do so if needed.
* Responsible for chairing Allegation Management Strategy Meetings where the concern has originated from activity outside the workers professional or volunteer place of work.
* Responsible for identifying whether other actions might be required following the completion of initial strategy meetings and to ascertain if a further meeting maybe needed due to wider service concerns.

2.3 Role of the Safeguarding Lead

All Local Safeguarding Adult Board organisations should have a Safeguarding Lead with ***overall*** responsibility for:

* Ensuring that their organisation operates safeguarding procedures including those procedures for dealing with allegations.
* Resolving any inter-agency issues; and
* Liaising with the RBSAB on the subject.

This role relates to the management and oversight of individual cases.

The Safeguarding Lead will liaise with and make referrals to the AML.

2.4 Role of the Senior Manager

For those organisations NOT represented on the Board, the Senior Manager within an organisation is the senior person to whom all allegations or concerns should be reported and has *overall* responsibility for:

* Ensuring procedures are properly applied and implemented; and
* Providing advice, information and guidance for staff within the organisation.
* Share information as needed with the AML in complex cases where they require support.
* Make referrals to and liaise with the AML.

2.5 It is critical that the relationship between the AML and the Safeguarding Lead or Senior Manager is clear to all. The AML should act independently of any organisation involved in the allegation concerned.

**3. Practice Issues**

3.1 Information Sharing - Information sharing is vital to safeguarding and promoting the well-being of adults with care and support needs.

Decisions on sharing information must be justifiable and proportionate, based on the potential or actual harm to adults or children at risk and the rationale for decision-making should always be recorded.

When sharing information about adults, children and young people at risk between agencies it should only be shared:

* where relevant and necessary, not simply all the information held
* with the relevant people who need all or some of the information
* when there is a specific need for the information to be shared at that time

The General Data Protection Regulations and the Human Rights Act 1998 are the two main legislative frameworks governing how, what and in what circumstances information may be shared.

3.2 Informing the individual alleged to have caused harm

As a general principle, persons subject to an allegation should be informed, by their employer, that an investigation will be carried out unless the initial risk assessment indicates that this disclosure might compromise an investigation or increase the risk of harm.

3.3 If the police decide the threshold is not met for criminal investigation, the employer is still responsible for undertaking an internal investigation into their worker to identify whether they believe their worker poses a risk of harm to adults with care and support needs. The employer should use the information that has been shared with them by the agencies involved. This action will be agreed at the appropriate Allegation Management strategy meeting, if the provider had not commenced an internal investigation. Such investigation should be undertaken in a timely manner, keeping the AML updated with progress as requested.

3.4 Data Controller

If an organisation is in receipt of information that gives cause for concern about a person in a position of trust, then that organisation should give careful consideration as to whether they should share the information with the person’s employers (or student body or voluntary organisation) to enable them to conduct an effective risk assessment.

The receiving organisation becomes the Data Controller as defined by the General Data Protection Regulations.

If, following an investigation a person in a position of trust is removed by either dismissal or permanent redeployment to a non-regulated activity, because they pose a risk of harm to adults with care and support needs, (or would have, had the person not left first), then the employer (or student body or voluntary organisation) has a legal duty to refer the person to the Disclosure and Barring Service (DBS). The new employer should also be informed.

*It is an offence to fail to make a referral without good reason.*

If a person subject to an investigation attempts to leave employment by resigning in an effort to avoid the investigation or disciplinary process, the investigation by the employer (or student body or voluntary organisation) should continue and depending on the outcome the DBS or regulatory bodies may be notified.

If the investigation outcome warrants it, the employer can dismiss the employee or volunteer instead and make a referral to the DBS.

Record Keeping

3.5 Record keeping is an integral part of the management of allegations. In Rochdale there is an expectation that complete and accurate records will need to contain information which provides comprehensive details of:

* Events leading to the allegation or concern about an adult’s behaviour
* The circumstances and context of the allegation
* Professional opinions
* Decisions made and the reasons for them
* Action that is taken
* Final outcome

3.4 Employers, managers and officers who are involved in the process of managing allegations should follow the principles of record-keeping contained within the Data Protection Act 1988, the Human Rights Act 1998 and the Freedom of Information Act 2002.

3.5 In Rochdale, employers are responsible for keeping all accurate up to date records regarding any allegation involving an employee. Records will be kept in a secure area of the individual’s HR file and not on a service user’s file.

3.6 In Rochdale the AML will keep accurate up to date records when an allegation meets the threshold for referral or when information is considered at initial consideration stage, the AML will record any advice given to employers or agencies.

3.7 For allegations that are substantiated the information will be kept on the Allegation Management system until the person alleged to have cause harm reaches 100 years of age. Where the allegation is unsubstantiated, unfounded or malicious/false, records should be kept on the Allegation Management system for 10 years, as this provides a safeguarding assurance to the employee. These arrangements are in line with Rochdale Local Authority Designated Officer (LADO) procedures.

**4. The Process**

**Responding to an Allegation**

4.1 When allegations arise against a person working with adults with care and support needs (this includes people working as volunteers) the employer should follow the procedures outlined in this procedure which is compliant with ‘The Care Act 2014.’

The procedures should be used when an allegation is made that a person who works with adults with care and support needs who has:

* Behaved in a way that has harmed, or may have harmed an adult or child
* 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.

If the answer is YES Safeguarding Lead or Senior Manager (see points 2.3 and 2.4 above) to complete the referral form and email this to the AML email address box for a decision to be made. The AML can be contacted on email aml@rochdale.gov.uk

If unsure and advice is required please complete an initial consideration form for this to be considered – the form is available on [www.rochdalesafeguarding.com](http://www.rochdalesafeguarding.com).

Should the allegation require police involvement, this information will need to be sent to GM Police for consideration. If it is clear a criminal offence has taken place, the employer must contact GM Police directly. Email address: rochdale.publicprotection@gmp.police.uk If the employer is unsure the allegation meets the criminal threshold, they should seek urgent clarification from AML. On receipt of the referral the AML will consider if the information needs to be shared with the Police, if this has not already been done.

4.2 If the allegation is about a person who is employed as a Personal Assistant under the Direct Payments scheme, please contact the AML for guidance. The process for personal assistants under the Direct Payment scheme is slightly different, as the recipient of the direct payment is also the employer. Please see appendix A.

4.3 Children

When a person’s conduct towards an adult may impact on their suitability to work with or continue to work with children, this must be referred to the Local Authority Designated Officer (LADO).

4.4 All organisations that provide services for adults with care and support needs or provide staff or volunteers to work with or care for adults with care and support needs should operate a procedure for handling such allegations that is consistent with this guidance and should identify a Safeguarding Lead or Senior Manager (see points 2.3 and 2.4 above) within the organisation to whom all allegations or concerns are reported (RBSAB Multi agency Safeguarding Policy and Procedures).

4.5 When managing any allegation, the welfare of the adult with care and support needs should remain paramount, making sure their wishes and feelings are respected under making safeguarding personal. Persons about whom there are concerns should be treated fairly and honestly and should be provided with support.

 It is the responsibility of all to safeguard and protect adults with care and support needs. This responsibility extends to a duty of care for those people employed, commissioned or contracted to work with adults with care and support needs.

 **The Manager’s (provider or voluntary organisation manager) initial response**

4.6 It is helpful prior to contacting the AML to obtain basic information from the person that is making the allegation. These enquiries should be kept as simple as four basic questions:

* Who – who is the allegation against?
* What – what happened?
* When – When did the incident happen?
* Where – Where did the incident occur?

4.7 Managers need to understand which behaviours to address directly through their own complaints or disciplinary procedures and under what circumstances they should contact the AML. Please see allegation management lead referral indicator matrix.

They need to ensure robust and clear processes are in place to follow should an allegation be made. Advice and support can be sought from the AML and Adult Care Services.

**Initial Consideration**

4.8 This may be over the phone, via e mail or in some cases face to face between the Allegation Management Lead and the Employer, Police or Safeguarding Lead or Senior Manager. There are three possible outcomes to an initial consideration:

* Allegation does not meet the threshold and a referral to allegation management is not required
* The threshold is met, an allegation management referral form is completed and a strategy meeting is to be convened. Allegation Management Lead to inform police and Adult Care Services if appropriate – should safeguards be required for the adult with care and support needs.
* Allegation is BORDERLINE. The matter should be investigated by the Safeguarding Lead or Senior Manager and appropriate action taken under internal disciplinary procedures. AML will liaise with employer on the outcome of their investigation and any disciplinary action taken.

4.9 To assist in making this decision, employers should use the initial consideration form; this can be forwarded to Allegation Management Lead inbox aml@rochdale.gov.uk in order to obtain a response and advice as to whether the action taken by the organisation is appropriate. The detail of the alleged perpetrator is not required at this stage, just the detail of the allegation. This form can be downloaded from [www.rochdalesafeguarding.com](http://www.rochdalesafeguarding.com) .

4.10 If it is clear that an allegation meets the criteria for the allegation management process, an allegation management referral form should be sent to the AML by the employer immediately. The form can be downloaded from [www.rochdalesafeguarding.com](http://www.rochdalesafeguarding.com)

4.11 If **another agency** such as **Adult Care** **Services** identifies a person who works with adults with care and support needs (possibly as part of a safeguarding concern that is received) that poses a risk of harm they should alert the Allegation Management Lead via e mail (aml@rochdale.gov.uk) outlining the risk the individual poses, the AML will then share the information with the employer in order for the employer to make a risk assessment, and to decide whether they feel a strategy meeting is required. The AML will also ensure that the information is passed if necessary to GMP who will screen the referral and decide if it is appropriate for them to investigate.

The employer will then complete the referral and send this into the AML, where the thresholds will be applied and a decision made whether it meets the criteria.

**Process for managing allegations against those who work with Adults with care and support needs**

Allegation made:

What is the allegation about? When did it happen? What happened? Where did it happen?

Information should be passed immediately to the Safeguarding Lead or Senior Manager (see points 2.3 and 2.4 in allegation management procedure) within the organisation.

……………………………………

Behaved in a way that has harmed, or may have harmed, an adult with care and support needs.

Possibly committed an offence against or related to an adult with care and support needs.

Based on initial information, Safeguarding Lead or Senior Manager to determine whether the member of staff has:

Behaved in a way that indicates that he/she poses a risk of harm to adults with care and support needs OR children.

Contact Allegation Management Lead to discuss course of action.

(aml@rochdale.gov.uk)

**DECIDE ON ACTION**

**No Further action.** Employer to keep a record of the information. **AML** may complete a tracking form with the advice provided.

**Allegation Management** Strategy meeting to be convened.

(see process)

Organisation undertakes **their own** **internal investigation**. **Employer to keep a record of this information**.

**AML** may complete tracking form of the advice provided.

Assessment or intervention from **Adult Care Services.**

Employer Action

Police Investigation

**Allegations Management Strategy Meetings**

4.12   An Allegations management strategy meeting should take place at the earliest opportunity and at least within 10 days of receipt of a referral. The purpose of the meeting is for professionals to share information in a confidential setting, to consider the risks that the Alleged Perpetrator may pose and for a decision to be made as to which agency will lead on any enquiries/investigations.

4.13    In Rochdale the AML expects the referrer to provide the AML with a list of key agencies that require an invite to the allegations management meeting. The alleged perpetrator does NOT attend an allegations management strategy meeting. Only key agencies should be invited to allegations management meetings. These may include:

* Police
* GM Integrated Commissioning (HMR) if the alleged perpetrator is a qualified medical professional (e.g. Doctor, Nurse etc.)
* HR
* The Employer
* Staff Agency (if appropriate)
* Integrated Commissioning Directorate
* Adult Social Care
* Children’s Social Care

4.14 The Employer needs to be explicit within the meeting that the Alleged perpetrator is aware that information has been shared with the local authority and that the leaflet has been provided to them.

4.15    Professionals in attendance are expected to provide a brief report as to the context of the allegation along with any enquiries they have made.

4.16   An Action Log will be distributed as soon as possible after the meeting. Minutes will also be taken at the meeting and will be distributed within 10 days of the meeting taking place. The minutes will be distributed to those in attendance at the meeting and can be shared with line manager only.

4.17    The alleged perpetrator is not entitled to a copy of the minutes as they contain third party information, they can however have a copy of the reason for the meeting and actions following the meeting.

4.18 The adult with care and support needs or their representative is not entitled to a copy of the minutes as they contain third party information, they should however receive as part of the s42 enquiry feedback (where appropriate) that the provider has taken managerial actions and engaged with the process where any risks posed by the alleged perpetrator has been addressed.

4.19 If the service user or their advocate are in agreement, Adult Care should share information about their safeguarding s42 concern or enquiry with all the providers involved in an allegation management case. This information is pivotal as it provides evidence to the agency as to whether harm has been caused to the Service User.

4.20   In some cases an outcome is reached following the first allegations management strategy meeting. In other cases further enquiries will be required from, Police, Adult Social Care, or the Employer in order for the employer to reach a conclusion in relation to the alleged abuse being substantiated or otherwise. The AML will make recommendations as to what further action is required. The meeting will then be re-convened in these cases.

4.21The police will make a decision, if they are involved, **whether they feel that the threshold for a police** investigation **is met.** If so, the employer must discuss with the police for permission to undertake their own internal investigation to prevent any potential of contamination of the police investigation. Once the police have concluded their enquiries, the outcome of the police investigation will be shared with the employer, this could be in the form of a follow up strategy meeting or in less complex cases the employer may be provided with the outcome in writing. On conclusion of police enquiries, the Managing Allegations process will still require completion, alongside accompanying safeguarding procedures.

4.22 The allegation management process requires an outcome decision by the provider as to whether the employee has caused harm or not to be reached (see section 4.25 below). This is required to conclude the Allegation Management process and ensures closure for all parties involved.

**Disciplinary Investigation**

4.23    An employer may suspend an alleged perpetrator – this is a neutral act and should not been seen as sanction, more as a way in which to safeguard both the Adult(s) with care and support needs and the employee.

4.24   Suspension should be considered in every case where:

* T**here is cause to suspect an Adult with care and support needs or children are at risk of significant harm/ and or has caused significant harm**
* The allegation warrants investigation by police, or
* The allegation is so serious that it might be grounds for dismissal

4.25    Alternatives to suspension can be considered if available and deemed suitable, this may be achieved by:

* The individual undertaking duties which do not involve direct contact with adults with care and support needs.
* Providing an assistant/colleague to be present when the worker has contact with adults with care and support needs.

4.26    All evidence gathered as part of the enquiry should be managed and kept by the employer to complete the disciplinary enquiry.

4.27    The employer should undertake their own internal investigation to consider if their member of staff poses a risk of harm to adults with care and support needs. The employer should conclude their internal investigation with consideration of the police and Adult Care information if applicable. The employer should make a decision on the ‘balance of probability’ whether the allegations of abuse or neglect made against their employee is:

* **Substantiated** – There is sufficient identifiable evidence to prove the allegation. Relevant Conduct has occurred
* **Unsubstantiated** – This is not the same as a false allegation, it simply means that there is insufficient identifiable evidence to prove the allegation. The term does not imply guilt or innocence
* **Unfounded** – There is no evidence or proper basis which supports the allegation being made, or there is evidence to prove that the allegation is untrue. It may also indicate the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances
* **Malicious/False** – There is “clear” evidence to prove that there has been a deliberate act to deceive and the allegation is entirely false.

4.28    The Employer will be expected to update the AML as to the outcome of their investigation. They will need to provide the AML with a clear outcome, along with rationale as to why decisions were made and what further action was taken, including any referrals to the DBS or other governing bodies. If the employer would like the AML to reconvene a strategy meeting or seek advice from AML prior to making this decision, this can be arranged.

4.29 In more complex and challenging cases the employer can make use of an ‘Outcome’ meeting alongside the AML if they feel this will support them to conclude their enquiries.

4.30    It is the responsibility of the Employer to keep the AML informed of the progress of the internal investigation and within agreed time scales.

**5. Referral to the Disclose and Barring Service (DBS)**

5.1      If an Allegation is substantiated the AML should discuss during the Allegation Management Strategy Meeting (if appropriate) whether a referral should be made to the Disclosure and Barring Service (DBS). If it is decided that a follow up meeting is not required the employer should inform the AML in writing if they intend to make a referral to the DBS. It is the responsibility of the employer to refer to the DBS.

5.2 Should the provider be unwilling to make a referral to the DBS and there is evidence that the outcome should be substantiated/and or Adult Care have identified that harm has been caused to the service user by someone in a position of trust then the AML will have a duty to make the referral to the DBS.

5.3 If there are concerns regarding actions taken by the employer, the AML will ensure the relevant commissioning service is made aware.

5.4 It is the responsibility of the person making the DBS referral to ensure the perpetrator is aware that such a referral has been made.

5.5     The DBS Barring Board hold responsibility in making decisions about barring individuals from regulated activity with Adults with Care and Support needs and children, they are responsible for updating and maintaining this list.

5.6      When a referral is made to the DBS the investigatory information will need to be provided to the DBS. The DBS can have a copy of the actions from the strategy meeting however the minutes contain third party information and therefore should not be automatically sent to the DBS. The DBS may share all documentation with the alleged perpetrator and therefore information within the minutes may need to be redacted prior to sending this to the DBS.

**Appendix A**

**Managing Allegations where service users with care and support needs are in receipt of a personal budget**

1. **Process – Introduction**
	1. This section of the Managing Allegations procedure is in relation to Personal Assistants (PA) employed under the Direct Payment scheme. It has become apparent, through case experience, that allegation management with Personal Assistants requires a slightly different approach. This is because the adult with care and support needs is also the employer under the Direct Payments scheme which makes allegation management more complex.

* 1. It is important to establish what regulated activity the PA is undertaking. Further information on regulated activity, as defined in the *Safeguarding Vulnerable Adults Groups Act 2006*  can be found on the CQCV website: <https://www.cqc.org.uk/guidance-providers/scope-registration-regulated-activities>
	2. It is important to establish whether the PA is employed under a managed budget or managed solely by the service user? This is because it is important to establish who the employer is for decision making and responsible for taking actions. The provider agency should address any concerns about a PA employed under a managed budget, using the usual allegation management process.
	3. In the cases of a PA employed under a managed budget, the provider agency can complete the referral form for allegation management and can support the service user with the following:
* Assistance in making decisions about actions where there are risks, such as suspension
* Writing letters to the PA to inform them of actions to be taken and the reason why
* Supporting the service user to engage in the managing allegations process where needed.
	1. Where the budget is managed by the service user, more involvement will be required from Adult Care to support the service user.
	2. Allegations about PA’s may come from a number of sources including:
* Children’s Social Care
* Police
* The service user themselves
* Concerns raised by a family member
* Other professionals
	1. Once the AML has received information about the PA, a decision needs to be made as to who is the most appropriate person to complete the referral form to the AML. This will depend somewhat on the source of the information.
	2. The service user may not recognise that they are subject to abuse or neglect by their PA. In these circumstances, a safeguarding strategy meeting is needed to identify risk of harm and decide how best to protect the service user. The AML should be invited. Discussions should take place to identify who is best placed to inform the service user that an allegation management referral has been made.
	3. Decisions should be made as to who is best placed to inform the PA that an allegation has been received about them and given the leaflet about the AM process. Checks should also be made to establish whether the PA is employed by other adults with care and support needs in order to establish their safety.
	4. The service user does NOT need to agree at this early stage that there is an issue but they should be strongly encouraged to attend the MA strategy meeting in order for those concerns to be shared with them so that their wishes and views about the risks posed to them by the PA can be established. The service user will need to be supported by Adult Care Services throughout this process.
	5. It is important to note that the PA may NOT have had a DBS check. If there are children present in the household, the allegations must be shared with the LADO and Children’s services.

**2. The Allegation Management Strategy Meeting**

2.1 The allegation management meeting will follow the usual process, but will take into account that the service user may be present at the meeting in a dual role as victim and employer.

 2.2 In these cases, the likely attendees will include:

* Service user themselves (As victim and as provider)
* Service users’ representative
* Police
* Children’s Social Care
* Adult Social Care to support Service User
* Managed budget representative

2.3 An emphasis will be placed on the views of the service user.

2.4 The strategy meeting will establish who should interview the PA about the allegations made about them. The PA has a right to reply against the allegation. Any such interview should be recorded and signed by the PA. It most circumstances, this is likely to be the appointed safeguarding investigating officer as part of the s42 enquiry.

**3. The Allegation Management Outcome**

3.1 The outcome decision, where possible, should be made by the service user who may require support from Adult Care with this decision making.

3.2 Decisions should be made on how to involve the service user. This can be done by meeting with the service user to establish the decision on the outcome. The AML is happy to support with this.

 3.3 Depending on the outcome, the PA may need to be referred to DBS. The AML will make a decision who is best placed to do this.