

11. STAFF DISCIPLINE AND CRIMINAL PROCEEDINGS:

- 11.1 The South Wales Adult Protection procedures fundamentally seek to enable all staff to act decisively and with confidence and in this respect, there is an absolute expectation that staff will do so. Ensuring the safety and welfare of all vulnerable adults is paramount and in support of this philosophy, it is essential that positive and timely management action is always taken against all suspected perpetrators of abuse.
- 11.2 In furtherance of this, all agencies should ensure that staff has access to the disciplinary policy and procedures and staff handbook where appropriate. When a complaint or allegation has been made against a member of staff, he/she must be made aware of their rights under employment legislation and internal disciplinary procedures.
- 11.3 Notifying the staff member may vary in the timing as it depends on whether the police are involved. It could be decided at the strategy discussion stage not to inform the staff member as this may inadvertently hamper the collection and/or contaminate the evidence, particularly in the case of financial abuse or theft.
- 11.4 As a matter of course, allegations of criminal behaviour must be reported to the police. In furtherance of such reports, the South Wales Adult Protection Forum recognises the need for core agencies to identify contingency procedures to cover situations where incidents of abuse are allegedly committed by a member of staff. Procedures covering the following scenarios should be agreed and put in place:
- What action should be taken, pending the outcome of the police and the employer's investigations;
 - What action to take following a decision to prosecute an individual;
 - What action to take following a decision not to prosecute;
 - What action to take pending trial;
 - What response should there be to both acquittal and conviction.
- 11.5 **Allegations of abuse against individuals who are either professional, a staff member or volunteer - in contact with vulnerable persons**
- 11.6 Allegations of abuse of vulnerable adults by a person who is a professional, staff member or volunteer must be taken seriously and treated in accordance with the Adult Protection procedures.

- 11.7 Professionals, staff members and volunteers who abuse in their private capacity may also present a risk to vulnerable people in a professional context.
- ‘Individual’ – relates to a professional, staff member or volunteer, including those in training.
 - ‘Professional’ staff relates to all staff employed by any public, voluntary or private agency, whose work brings them into contact with vulnerable adults.
 - ‘Volunteer’ – relates to individuals used or accredited by any public, voluntary or private agency, whose work brings them into contact with children or vulnerable adults.
- 11.8 All agencies and organisations involved in the care, support and protection of vulnerable adults (including day care, leisure, churches, other places of worship and voluntary services) should have procedures for handling such allegations which is consistent with guidance afforded by these Adult Protection procedures.
- 11.9 Allegations and suspicions of professional abuse must be either referred to Social Services or the Police and where appropriate, a strategy meeting should be convened in accordance with the section 9 – Adult Protection procedures.
- 11.10 Where such referrals identify a potential risk to any vulnerable adult(s) the agency employing that person should consider whether immediate suspension of the member of staff is required in order to safeguard any vulnerable adult(s). If this is thought to be necessary, the relevant senior manager in the employing agency should be informed without delay.
- 11.11 **It is the sole responsibility of the employer to decide whether a member of staff should be suspended or subject of other management action.**

Please note: Guidance setting out ‘Reciprocal arrangements for reporting potential abuse by an individual who is a professional, staff member or volunteer in contact with children and vulnerable adults’ should be followed – See Appendix ‘D’.

11.12 **Management Action (Disciplinary procedures):**

- 11.13 Employers who are also providers or service commissioners have not only a duty to the victim of abuse but also a responsibility to take action in relation to the employee when allegations of abuse are made against them. Employers must ensure that their management action and any subsequent

disciplinary procedures is compatible with the responsibility to protect vulnerable adults.

- 11.14 With regard to abuse, neglect and misconduct, some perpetrators will be governed by codes of professional conduct and/or employer's contracts that will determine the action that can be taken against them. Where appropriate, employers should report workers to the statutory and other bodies responsible for professional regulation.
- 11.15 In criminal law, the Crown or other prosecuting authority has to prove guilt, and the defendant is presumed innocent until proven guilty. The standard of proof for any criminal prosecution is 'beyond all reasonable doubt' whereas the standard of proof for internal discipline is usually the civil standard based on 'the balance of probabilities'.
- 11.16 **Suspension from duty:**
- 11.17 The employee may be suspended or redeployed without prejudice pending the outcome of the employer's initial investigation and risk assessment. Any decision not to suspend or redeploy a person may need to be discussed with the Police during the strategy process and endorsed separately by an independent senior officer within the investigating agency.
- 11.18 **POVA scheme – Considerations:**
- 11.19 Section 82 (d) of the Care Standards Act 2000 states that: 'A person who provides care for vulnerable adults ("the provider") shall refer a care worker to the Secretary of State..... if the provider has suspended the worker or provisionally transferred him/her to a position which is not a care position but has not yet decided whether to dismiss him/her or to confirm the transfer'. (Further guidance on this may be found in the paragraphs 48-72 of the Department of Health 'Practical Guidance – **Referring persons for inclusion on the POVA List**'; Section 4: POVA scheme and section 14: Legal Context, paragraph 14.50 – POVA Scheme - Care Standards Act)