

Adult Local Authority Designated Officer (LADO) Role and Responsibilities

Essex County Council

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Document Control Sheet

Title:	Adult Local Authority Designated Officer (LADO) Role and Responsibilities
Purpose:	To provide guidance on the roles and responsibilities of an Adult Local Authority Designated Officer
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This should be read alongside:	This document is compliant with all relevant legislation at the time of publication and adheres to the current SET Safeguarding Adults Guidelines
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Introduction

This guidance has been created to give an overview of the roles/responsibilities of the Adult Local Authority Designated Officer (LADO) in Adult Social Care. It provides an overview of the remit of the adult LADO, framing it within the legal context and provides examples of what would and wouldn't meet the threshold for their intervention, by way of offering some clarity in relation to the role. This guidance includes contact details and a referral form for internal and external agencies should they wish to make a referral to the Adult LADO.

Background and legal context

It is important to confirm that although there is no statutory Local Authority Designated role (LADO) specified within the Care Act 2014; Essex County Council have adopted this title, role and function as part of its responsibilities under the Adult Safeguarding duties.

Essex County Council recognises that there is a need to offer guidance and support to internal and external agencies when they have employees who may be subject to police arrest or allegations about issues in their personal lives, which could pose a transferable risk to the adults they are working with in a professional capacity, be that paid or voluntary employment with adults with needs for care and support.

The Care Act 2014 safeguarding duties apply to adults who;

- Have needs for care and support (whether the local authority is meeting any of those needs or not) and:
- Are experiencing, or are at risk of, abuse or neglect; and
- As a result of those care and support needs are unable to protect themselves from either the risk of, or the experience of abuse or neglect.

Whilst a worker may not have directly caused harm to those adults, if there is a transferable risk identified, this needs to be explored in order to minimise risks to the adults who may have needs for care and support.

The Care and Support Statutory Guidance Chapter 14 (<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#safeguarding-1>) explains the safeguarding duty and how a local authority must apply that duty. In particular:

14.121 Safeguarding adults boards need to establish and agree a framework and process for how allegations against people working with adults with care and support needs (for example, those in positions of trust) should be notified and responded to. Whilst the focus of safeguarding adults work is to safeguard one or more identified adults with care and support needs, there are occasions when incidents are reported that do not involve an adult at risk, but indicate, nevertheless, that a risk may be posed to adults at risk by a person in a position of trust.

14.122 *Where such concerns are raised about someone who works with adults with care and support needs, it will be necessary for the employer (or student body or voluntary organisation) to assess any potential risk to adults with care and support needs who use their services, and, if necessary, to take action to safeguard those adults.*

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

- *behaved in a way that has harmed, or may have harmed an adult or child*
- *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*

14.124 *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's designated officer.*

14.125 *If a local authority is given information about such concerns they should give careful consideration to what information should be shared with employers (or student body or voluntary organisation) to enable risk assessment.*

Disclosure of criminal convictions or other police information is governed by the Disclosure & Barring Service (DBS) system and the Rehabilitation of Offenders Act 1974. There are exceptions allowing the police to disclose information in specific circumstances in the Police Act 1997 for the prevention and detection of crime. This can allow the police to disclose information to the employer in certain situations and to inform the local authority where **appropriate**. This does not however, allow the local authority to notify the employer, or to take further action, without justifiable **cause**.

The Police Common Law Disclosure deals with this:

[Risk and associated investigations | College of Policing](#)

Thresholds for disclosing information

Given the lack of clear statutory guidance, case law has explored this area and has concluded that it is possible to disclose information in this way but that any disclosure should be the exception and not the rule.

Each case should be examined on its own merits and various factors should be considered before any decision is made. The proportionality of the decision is key, and information should only be disclosed if there is a pressing need. The subject of the information should have a chance to contribute their views to the decision-making process if disclosure is considered. Factors to consider would include:

- the welfare and interests of the adult/s concerned, the public interest in the administration of justice and the prosecution of serious crime,
- the gravity of the alleged offence and the relevance of the evidence to it,

- The level of risk to adults with care and support needs
- the desirability of cooperation between the various agencies concerned with the welfare of adults
- other factors relating to fairness to the alleged offender
- other material disclosure which had taken place

Any information of this type held by the local authority would likely be sensitive personal data under the Data Protection Act 2018. It should not be shared although there is an exception for data sharing in pursuit of legal obligations.

The act of disclosure would be a breach of Article 8 of the European Convention on Human Rights – the right of respect for private and family life. This would be the case because information given to the local authority regarding the alleged offender would clearly be private and confidential which is why sharing the information without the consent of person providing it must be balanced by a pressing need. This is a high standard.

In the Court of Appeal in *H and L v A City Council* (2011) a local authority were strongly criticised by Munby J because they disclosed information relating to a convicted paedophile and his partner to the organisations his business was contracting with. The reason for the criticism was that the local authority had issued a blanket disclosure, did not consider the proportionality of their actions, and as such there was not a pressing need for the disclosure as the transferable risk was not evidenced.

A local authority that disclosed information incorrectly which leads to a loss, for example the loss of a job and/ or suffering stress, may have a potential liability for damages.

The Main Purpose of the Adult LADO

The main purpose of the Adult LADO is:

- Once a referral is made or a common law disclosure is received, the Adult LADO will risk assess the situation to consider the level of risk to adults (receiving support). Where transferable risks are identified, the LADO will determine whether an employer should be contacted in relation to an allegation which could pose a transferable risk to the adults they support. This may include providing advice for the employer to undertake further investigation or minimise any risks. The LADO will ensure that the SET Safeguarding Adults Guidelines are always adhered to.
- The LADO will assist the employer to determine whether the person is suitable to continue working with adults at risk and to see each situation through until that decision has been made.
- The LADO will offer a joined-up approach between Children's and Adult's safeguarding services as necessary when responding to allegations or referrals
- Although the Care Act 2014 promotes the principles of the LADO role to cover adults at risk, the role of the Adult LADO is non-statutory.

- The Adult LADO would give consideration to situations:
 - where the person alleged to have caused harm works with adults at risk in a professional or voluntary caring role,
 - there are concerns about their behaviour which has or may have caused harm towards his/her own family member, or others.
- If the person is being investigated by police for possible criminal activity and holds a position of trust in the care field then the employer may be notified through the Common Law Police Disclosure Arrangements by the Police, with the relevant local authority being copied into such letters. It is the role of the adult LADO to ensure (where the crime poses a transferable risk to adults in terms of their role) that the employer is aware of such a letter and reminded to risk assess the situation. If the person is dismissed or leaves their employment, then a referral must be made to the Disclosures and Barring Service.

The Children's LADO MUST be notified in situations where the individual has:

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

The Adult LADO role applies to staff that are working with adults in the following capacity:

- Paid
- Unpaid
- Volunteers
- Casual workers
- Agency workers
- Self-employed workers

Notifications

The Head of Safeguarding & Mental Capacity, Service Manager for Safeguarding and the Organisational Safeguarding Team Managers are the central point of access for all Adult LADO referrals, screening, and appropriate action. Referrals can be sent via email to: adult.LADO@essex.gov.uk Referrals concern people who work with adults with needs for care and support and who are subject to enquiry (either by the Police, Children's Services or their employer) due to their personal circumstances or employment, posing a potential risk to those adults with needs for care and support who they work with in a professional (or voluntary) capacity.

The Adult LADO can receive notifications (referrals) in the following ways:

From Children's Services

Referrals may be as a result of a police investigation or an assessment by children's social care that raises concerns that there could be a transferable risk that may impact on people at risk who the person is employed to support, whether this is in a formal or voluntary capacity (see 2.2 for types of employment).

Common Law Police Disclosure Arrangements

If someone is arrested and they disclose that they work with adults with needs for care and support the Police will send a letter to the person's employer and a copy to the local authority adult safeguarding team. This is factual information and can be acted on if deemed appropriate.

In many cases the letter will inform of an arrest and not necessarily a conviction. In such cases a risk assessment may be required, and the situation managed by the employer. The ECC adult LADO will assess whether they need to contact an employer to discuss any risk management plan that is put into place to ensure that it is appropriate.

If an employer (including the local authority) receives a Common Law Police Disclosure letter it would be advisable for them to contact their HR department and Line Manager immediately for further advice.

Referrals from Employers/Voluntary Organisations

Where an employer/Voluntary organisation is advised or notified of concerns about one of their employees which could pose a transferable risk to the adults they support, they may contact the Adult LADO for advice and support

If the referral relates to a safeguarding concern the SET safeguarding process should be followed. Referrers will be directed to the appropriate point of access for Adult Social Care who can manage the concern.

Examples in practice

Example 1: Children's LADO receives an anonymous referral raising serious concerns about the conduct of a male nurse at a private hospital allegedly grooming two young patients at the Hospital who are known to ECC. *This concern would be addressed via a safeguarding concern/section 42 enquiry in the first instance as opposed to the adult LADO process as the concern relates to risks which could have occurred in the work place as opposed to in the worker's private life.*

Example 2: A common law disclosure letter is received from Essex Police advising that a worker from an older adults' care home was found driving over the legal limit of alcohol consumption. *Since this would have occurred in the worker's own time and it is unlikely that they would be driving adults in their car's, this would not meet*

the threshold for the Adult LADO to contact the employer, as the transferable risk to the older adults in the care home would be very minimal

Example 3: Adult Social Care receives an anonymous referral raising serious concerns about the conduct of a male nurse at a private hospital who is alleged to be physically abusive to his wife. There are no known concerns relating to his behaviour at work. *This referral would be given full consideration by the Adult LADO and they would likely carry out actions under Chapter 14 (para 14.125) of the Statutory Care & Support Guidance because there could be a transferable risk to adults they support*

Example 4: Children's social care contact the Adult LADO as they have placed a child in care, whose parent is subject of a police investigation and court proceedings and they are concerned because they work with adults who have care and support needs. *This referral would be given full consideration by the Adult LADO and they would likely carry out actions under Chapter 14 (para 14.125) of the Statutory Care & Support Guidance because there could be a transferable risk to adults they support*

Adult LADO responsibilities

The Adult LADO:

- Will make an initial assessment and will consider if anyone is at immediate risk of potential harm or exploitation. If the risk is high, they will make an informed decision to contact the employer and discuss appropriate risk management plans.
- Will work in conjunction with the Police and other agencies where it is thought that a criminal offence has occurred.
- Will follow progress of a situation with internal/external agencies through to conclusion
- Will offer advice and support to senior managers in relation to direct employee situations
- Will advise whether a safeguarding concern should be raised

The Adult LADO will not:

- Investigate the allegations themselves. They will only act in an advisory role to others to ensure appropriate action is taken.
- Act in place of the responsible employer.

Requests to check information from the DBS Team

The DBS team, in the course of their responsibility/function will contact the Adult LADOs when someone has applied to work across the health and social care sector where the person may have been involved in a safeguarding situation where they are alleged the person responsible to have caused abuse. The LADOs have a duty to share information, including outcomes of s42 enquiries. The DBS team would then consider whether this information needs to be considered as part of the outcome of the DBS referral received. Adult LADOs do not make decisions about outcomes of DBS referrals, but may be asked

by the team for a view about a particular incident. Any views shared would be based on the facts of a situation alone.

Disciplinary process or assessment regarding suitability

It is not the role or function of the Adult LADO to be actively involved in any disciplinary action that is being considered

The Adult LADO will advise if a Disclosures and Barring Service referral should be made, or a referral to Social Work England, NMC and or HCPC.

The fact that a person tenders his or her resignation or ceases to provide their services must not prevent an allegation from being followed up in accordance with these procedures and a conclusion reached.

A so called “compromise agreement” by which a person agrees to resign, the employer agrees not to pursue disciplinary action and both agree a form of words to be used in any future reference must not be used in situations which are relevant to these procedures.

Advice and Support

To make a referral, please complete the attached referral form and email to: adult.LADO@essex.gov.uk

Alternatively, please contact:

Alison Clark, ASC Service Manager: email: Alison.clark@essex.gov.uk; Tel: 03330 131000

Emma Bundy, ASC Team Manager: email: Emma.bundy@essex.gov.uk; Tel:03330 131008

Nicola Wright, ASC Team Manager: email: Nicola.wright@essex.gov.uk; Tel:03330 134446

Useful Links

Disclosures and Barring Service website:

<https://www.gov.uk/government/organisations/disclosure-and-barring-service>

Safeguarding Vulnerable Groups Act 2006

www.legislation.gov.uk/ukpga/2006/47/contents

Care Act 2014

<http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>

Care Act Care and Support Statutory Guidance

<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#safeguarding-1>

Common Law Disclosures

[Police Common Law Disclosures \(college.police.uk\)](http://college.police.uk)

Mental Capacity Act 2005

www.legislation.gov.uk/ukpga/2005/9/contents