

Information Requests

PP B3E 2
County Hall
Taunton
Somerset
TA1 4DY

Please ask for: Simon Butt
FOI Reference: 1731065
Direct Dial: 01823 359359
Email: xxxx.xxxxxxxxxxx@xxxx.xxxxxxxxx.xxx
Date: 24 November 2016

Mr Steve Payton
???

Dear Mr Payton

Freedom of Information Act 2000

I can confirm that the information you have requested is held by Somerset County Council. Our answers are underneath your questions as follows;

Your Request:

I would like to know you policy regarding the disclosure of the identity of people who disclose historic sexual abuse.

Also Specifically:

Question 1. Is the identity of the complainant disclosed to the alleged abuser and if so under what conditions?

Answer 1. Specifically relating to the holding and handling of sensitive data, Somerset County Council (SCC) works under the remit of the Care Act 2014 and Care and Support Statutory Guidance 2016, the Public Interest Disclosure Act 1998 and the Data Protection Act 1998.

We take the decision to disclose the identity of people who disclose historic sexual abuse very seriously. This would not be a decision that Somerset County Council takes in isolation; we would work with relevant partner organisations to decide what information should be disclosed, to whom and by whom. The information disclosed depends on the nature of the criminal investigation and is dealt with on a case-by-case basis.

Question 2. What processes and procedures are in place to protect and support the complainant when / if his or her identity is disclosed?

Answer 2. The decision to disclose the 'complainant's' details to the alleged abuser will be fully risk assessed as part of a multi-agency strategy discussion to ascertain the parameters of this disclosure and the impact it could have on an investigation.

Question 3. What prior notice is given to the complainant regarding potential disclosure of his or her identity?

Answer 3. This will depend on the circumstances of the individual case. However, there are many frameworks in place to protect individuals. These include witness protection, victim support, Lighthouse Victim Care, whistle-blowing procedures and Caldicott principles.

Question 4. What warnings about potential disclosure of his or her identity are provided before the complainant discloses?

Answer 4. The parameters of disclosure, when the decision has been made to make one, will outline when the disclosure is made and what support that individual may need.

Somerset County Council consults with our partners in relation to all allegations of historic sexual assault. Rarely will SCC be the lead agency in these instances and multi agency working is essential to secure evidence, protect the complainant and ensure that response to safety are proportionate.

The following, more general information may be of use to you.

Our actions to safeguard individuals are underpinned by the Care Act 2014 guidance as specified below, specifically regarding confidentiality and the access to sensitive information. An adapted summary of the Somerset County Council HR whistle-blowing policy says:

Whistleblowing

Public Interest Disclosure Act 1998 protects employees who raise concerns, and the Act provides a worker with potential protection from detriment and dismissal for making a 'qualifying disclosure'.

This Code aims to:

- encourage people to feel confident in raising serious concerns and to question and act upon concerns about practice;
- provide avenues for people to raise concerns and receive feedback on any action taken;
- ensure that people receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied;
- reassure them that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they have made any disclosure that may need to be made in the interest of public safety.

Concerns are normally raised by the whistle-blower directly with their immediate line manager – but there are other routes if they feel this will compromise the investigation or place an individual or organisation at increased risk.

Concerns may be raised verbally or in writing. We need information that includes the background and history of the concern (giving relevant details, e.g. names, dates) and the reason why they are particularly concerned about the situation. When raising a concern, the whistle-blower must declare any personal interest they have in the matter.

Anonymous Allegations

People are encouraged to put their name to an allegation whenever possible. Concerns expressed anonymously or through a third party are much less powerful and may not be possible to investigate. The safeguarding service will make this decision based on the information available and the level of risk to organisation and/or individual.

Confidentiality

All concerns will be treated in confidence and every effort will be made not to reveal the identity of the whistle-blower if stated on contact. It must be appreciated, however, that the enquiry process may reveal the source of the information, and that a statement may be required as part of the evidence and/or the whistle-blower may need to come forward as a witness at the appropriate time.

The Care Act Statutory Guidance (2016) Chapter 14 states:

Information and advice services should also be equipped to advise on appropriate information sharing and the duty to co-operate under Section 6 of The Care Act.

Decisions on sharing information must be justifiable and proportionate, based on the potential or actual harm to adults or children 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

All agencies should identify arrangements, consistent with principles and rules of fairness, confidentiality and data protection for making records available to those adults affected by, and subject to, an enquiry. If the alleged abuser is using care and support themselves, then information about their involvement in an adult safeguarding enquiry, including the outcome, should be included in their case record. If it is assessed that the individual continues to pose a threat to other people then this should be included in any information that is passed on to service providers or other people who need to know.

Confidentiality

Agencies should draw up a common agreement relating to confidentiality and setting out the principles governing the sharing of information, based on the welfare of the adult or of other potentially affected adults. Any agreement should be consistent with the principles set out in the Caldicott Review published 2013 ensuring that:

- information will only be shared on a 'need to know' basis when it is in the interests of the adult
- confidentiality must not be confused with secrecy
- informed consent should be obtained but, if this is not possible and other adults are at risk of abuse or neglect, it may be necessary to override the requirement
- it is inappropriate for agencies to give assurances of absolute confidentiality in cases where there are
- concerns about abuse, particularly in those situations when other adults may be at risk

Where an adult has refused to consent to information being disclosed for these purposes, then practitioners must consider whether there is an overriding public interest that would justify information sharing (e.g. because there is a risk that others are at risk of serious harm) and wherever possible, the appropriate Caldicott Guardian should be involved.

Confidentiality: NHS Code of Practice sets out guidance on public interest disclosure.

Decisions about who needs to know and what needs to be known should be taken on a case by case basis, within agency policies and the constraints of the legal framework.

Principles of confidentiality designed to safeguard and promote the interests of an adult should not be confused with those designed to protect the management interests of an organisation. These have a legitimate role but must never be allowed to conflict with the welfare of an adult. If it appears to an employee or person in a similar role that such confidentiality rules may be operating against the interests of the adult then a duty arises to make full disclosure in the public interest.

In certain circumstances, it will be necessary to exchange or disclose personal information which will need to be in accordance with the law on confidentiality and the Data Protection Act 1998 where this applies. The Home Office and the Office of the Information Commissioner have issued general guidance on the preparation and use of information sharing protocols. Information for staff, people who use care and support, carers and the general public.

Information in a range of media should be produced in different, user-friendly formats for people with care and support needs and their carers. These should explain clearly what abuse is and also how to express concern and make a complaint. Adults with care and support needs and carers should be informed that their concern or complaint will be taken seriously, be dealt with independently and that they will be kept involved in the process to the degree that they wish to be. They should be reassured that they will receive help and support in taking action on their own behalf. They should also be advised that they can nominate an advocate or representative to speak and act on their behalf if they wish.

If an adult has no appropriate person to support them and has substantial difficulty in being involved in the local authority processes, they must be informed of their right to an

independent advocate. Where appropriate local authorities should provide information on access to appropriate services such as how to obtain independent legal advice or counselling services for example. The involvement of adults at risk in developing such communication is sensible.

All commissioners or providers of services in the public, voluntary or private sectors should disseminate information about the multi-agency policy and procedures. Staff should be made aware through internal guidelines of what to do when they suspect or encounter abuse of adults in vulnerable situations. This should be incorporated in staff manuals or handbooks detailing terms and conditions of appointment and other employment procedures so that individual staff members will be aware of their responsibilities in relation to safeguarding adults.

Please quote the reference number 1731065 in any future communications.

If you feel your request has not been answered in sufficient detail, or if you wish to clarify the information given, please contact me, and I will be happy to address the issues you raise.

Alternatively, if you are not satisfied with our response you may request an internal review. This is an independent investigation into the handling of your request, which is carried out by the Information Governance Team. The conclusions of this investigation, and if applicable, a fresh decision about the information to be provided, should be sent to you within twenty working days of receipt of the internal review request.

To request an Internal Review please respond to the email that this response was attached to detailing why you are not satisfied, and your request will be dealt with by the information governance team.

If you are not content with the outcome of the internal review, you may then appeal directly to the Information Commissioner's Office with your complaint.

The Information commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Telephone: 0303 123 1113

Web address: www.ico.gov.uk

I will now close your request as of this date.

Yours sincerely

Simon Butt
Information Request Officer