



## Information Sharing Guidance for Practitioners July 2010

### 1. Purpose:

The sharing of personal information about individual service users, including children, young people, adults and their families, is often essential for the provision of effective services to them and to the community.

Information sharing is also vital to safeguarding and promoting the welfare of children and young people. A key factor in many serious case reviews has been a failure to record information, to share it, to understand the significance of the information shared, and to take appropriate action in relation to known or suspected abuse or neglect (source: Every Child Matters: Information Sharing: Practitioner's guide April 2006).

All information sharing needs to be managed in ways which respect a parent/carers, child and young person's right to privacy and confidentiality and must be carried out in compliance with the 1998 Data Protection Act and the Human Rights Act of 1998.

The aim of this *Guidance* is to provide clear information for all professional agencies in Swindon which deal with children and young people, and with their families, on how and when confidential information may be shared between them.

**If you are in any doubt whether to share information then speak to your manager or contact your agencies Data Protection Officer, or the Data Protection Officer of Swindon Borough Council.**

**This *Guidance* is part of the "Swindon Information Sharing Protocol, February 2010" and must be read in conjunction with that document.**

**This *Guidance* has amended in conjunction with the CYPSP Integrated Working Guidance 2010 and the HM Government Guidance 'Information Sharing: Guidance for Practitioners and Managers' 2008. For further information on this document, visit**

**<http://www.education.gov.uk/schools/leadership/governance/becomingagovernor/rolesandresponsibilities/a0056705/information-sharing-guidance-for-practitioners-and-managers>**

This *Guidance* deals in particular with information sharing processes for children and young people. Each agency will need consider whether more detailed procedures are required to ensure the principles outlined in these document are implemented using the tools provided with this guidance.

**This does not over ride situations where a child or young person is ‘at risk of serious harm’. In all cases of ‘risk of serious harm’ the Child Protection Procedures for Wiltshire and Swindon must be followed. The procedures can be found at [www.swcpp.org.uk](http://www.swcpp.org.uk)**

**Furthermore, this *Guidance* also does not apply to situations where the disclosure of information is required for the prevention or detection of a serious crime.**

## 2. Principles Underpinning This Guidance:

- There will be transparency in the process of information sharing both within and between agencies and with service users.
- The “informed consent” of service users is required in order to share or seek personal information (other than in those exceptional circumstances prescribed by law). “Informed consent” means that an explanation needs to be given to service users as to why the information is being sought or shared, with whom, and to what purpose.
- Based on this explanation, service users have the right to withhold, comply or specify limitations as to the sharing and use of their information.
- The outcome of the sharing of information in terms of forming an assessment or progressing a case will in all cases be fed back to service users and those agencies involved in the process, and recorded.”

**Note: This *Guidance* clarifies, in Section 7, the particular approaches required, where children are involved.**

## 3. Practitioner support from employers:

To give practitioners confidence to apply the guidance in practice, it is important that they have:

- A systematic approach within their agency to explaining to children, young people and families when they first access the service how and why information may be shared, which will build the confidence of all involved.
- Clear systems, standards and protocols for sharing information. These may derive from their agency’s policies, any local protocols in place, or from their professional code of conduct.
- Access to training where they can discuss issues which concern them and explore case examples with other practitioners.
- A source of advice and support on information sharing issues.

The statutory guidance on section 11 of the Children Act 2004 states that in order to safeguard and promote children’s welfare, the agencies covered by section 11 should make arrangements to ensure that:

- a. all staff in contact with children and young people understand what to do and the most effective ways of sharing information if they believe that a child and family may require particular services in order to achieve positive outcomes;

- b. all staff in contact with children and young people understand what to do and when to share information if they believe that a child may be a child in need, including those children suffering or at risk of suffering harm;
- c. appropriate agency-specific guidance is produced to complement guidance issued by central Government, and such guidance and appropriate training is made available to new staff as part of their induction and ongoing training;
- d. guidance and training specifically covers the sharing of information between professions, organisations and agencies, as well as within them, and arrangements for training take into account the value of multi-agency as well as single agency training;
- e. managers in children's services are fully conversant with the legal framework and good practice guidance issued for practitioners working with children and young people.

The statutory guidance on section 10 of the Children Act 2004 makes it clear that effective information sharing supports the duty to co-operate to improve the well-being of children

#### **4. Confidentiality:**

Confidentiality between service user and practitioner is the starting point for agencies offering support to children, young people and families. Sharing of personal information with other agencies, is the one permitted departure from the rule of absolute confidentiality. In deciding whether there is a need to share information, practitioners need to consider:

- a.) whether the information is confidential
- b.) if it is confidential, whether there is a public interest sufficient to justify sharing

Confidence is only breached where the sharing of confidential information is not consented to by the person who provided it or to whom it relates.

## 5. The 9 key messages for information sharing:

- Get on the front foot. Gain **consent**, if necessary, at the start of your involvement.
- **Why, what, how and whom?...**be **upfront, open and honest** and keep the person informed and involved. It's their information.
- Before you decide to share, consider the **safety and well-being** of the person and anyone else who may be affected by their actions or by the disclosure.
- **Is there an overriding public interest?** (e.g. is there a risk to a child, young person or adult?) If you believe there is, you can share information without consent and still remain within the law.
- Trust your instincts. Use your **professional judgement** based on the facts of the case but...**don't go it alone!** Ask for help from your manager or trusted colleague if you are not sure.
- **Don't go overboard.** Only share what you need with those who need to know it. No more, no less.
- **Get it right.** Make sure what you share is **accurate, up-to-date, timely, and secure.**
- Commit to paper! **Keep a record** of your decision and the reasons for it - even if you decide not to share.
- Think of the Data Protection Act as a **help not a hindrance**. It is **not a barrier** to sharing information but is there to help you share information lawfully and fairly
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## 7. Information Sharing with Consent:

In order to share information, consent of the individual needs to be sought.

- ✚ Children are entitled to the same duty of confidentiality as adults, provided that those under 16 understand the choices they make and the consequences of information being shared (Fraser competency needs to be established)
- ✚ In relation to children and young people (unless the young person is deemed to be Fraser competent), parental consent should be sought to share information. Only one party with parental responsibility is required to give consent. Those young people who are Fraser competent can give consent in their own right.

When obtaining consent to pass on or seek information from another agency, the Data Protection Act 1998 is clear that an explanation must be given to the service user about:

- The purpose of approaching other individuals or agencies
- The reason for disclosure of information
- Details of the individuals or agencies being contacted
- What information will be sought and shared
- Why the information is important
- What it is hoped will be achieved.”

Wherever possible, and certainly where young people are deemed to be Fraser competent, children and young people should be directly included in these explanations.

In practice, the treatment of confidential information needs to be based on the following considerations:

- The children, families and young person should be told about the agency’s confidentiality policy at the beginning of involvement and about routine information-sharing within agencies for purposes of consultation and supervision and between statutory agencies when there are legal requirements.
- It is good practice to ask parent/carers or the young person to sign an agreement giving consent to information-sharing which is envisaged.
- The young person or the parent/carer should also be told that if s/he reveals that s/he, or another young person, is at risk of suffering significant harm or information will lead to prevention/detection of a serious crime, this information **will** be disclosed to Children’s Services or the Police.

When sharing information

- Only relevant information relating to the problem or concern should be shared
- Information should distinguish between fact and opinion
- Information shared should be accurate and up to date

- Information needed for the purposes of monitoring, evaluation, research and service planning will be shared in anonymous form to protect the identity of the service user.

## 8. Information Sharing without Consent:

In deciding that there is an overriding public interest case law has established that in order to disclose there must be a 'pressing need' to disclose in that the benefits of disclosure outweighs any harm which such disclosure may cause. Case law sets out the following factors which must be considered to decide if there is a 'pressing need' to disclose:

- Where the young person is *suffering or likely to suffer significant harm* and the Child Protection Procedures must be followed.
- Where information sharing will lead to the detection or prevention of a serious crime
- Where the public interest in safeguarding the child's welfare overrides the need to keep information confidential (for example, Social Services who are undertaking an initial assessment under Section 17 of the Children Act 1989 before determining whether to start a child protection investigation (section 47 investigation) or whether a service is offered).
- This also includes children or young people who are not attending any school and where the Education Welfare Service **must** be informed.

In deciding that there is an overriding public interest, it is important that the following factors are considered:

1. That there is a reasonable belief that the information passed on is correct.
2. That there is a need for the individual for whom the information is passed to have that information.
3. The degree of risk posed to the individual if the disclosure was not made

## 9. Consent Withheld:

If the person with parental responsibility or a young person of Fraser competence wants identifiable information about them withheld from someone or some agency which might otherwise have received it, the individual's wishes must be

respected, unless there are exceptional circumstances. Every effort must be made to explain to the individual the consequences of their choice, but the final decision rests with the individual. Information may be shared against the wishes of the individual if not to do so would lead to the child suffering significant harm. This should be recorded in writing on the file.

#### **10. Sharing Information About Young People Deemed Fraser Competent with their Parent/s or Carers:**

Young people need to be encouraged to approach services for help and advice in relation to their personal concerns, including drug misuse. If they are judged to be Fraser competent, then it is important that they are able to do this knowing that their confidences will not automatically be passed on to their parents without their knowledge or permission.

However, young people should always be actively encouraged to find ways of involving their parents or carers who, in the overwhelming majority of cases, will be wanting to do their best for children, who may be in trouble or distress. Furthermore, the support of parents and carers may be instrumental in helping young people overcome difficulties.

Some young people, deemed Fraser competent, will not wish their parents to be informed about specific issues. Confidentiality needs to be maintained unless the lack of sharing of information with parents/carers will lead the young person to suffer significant harm or a crime is likely to be committed.

#### **11. Information Security:**

Information needed to provide an appropriate service to young people will be requested of them, or their parent/carers, and kept safely in files, which young people will be able to read.

Parent/carers can read information directly about themselves and their children. If the young person is deemed Fraser competent, then the young person's consent needs to be obtained before a parent/carers can have access to the information.

Additional information may be requested of other agencies with the consent of the young person or parent/carer and this information will also be held on the personal file.

All personal information must be kept in a secure environment, where access is controlled, and security measures are in place.

Information, for this Protocol, covers any method of information creation or collection, including electronic capture and storage, manual paper records, video and audio recordings, and any images, however created."

## **12. Agencies Receiving Information:**

Agencies will not disclose that information to other organisations without obtaining further informed consent from the young person or parent/carer unless the original consent covers the further disclosure. If they discover that some information is inaccurate they will notify the supplying agency.

## **13. Monitoring Of Guidance:**

Each agency will have a Senior Officer, e.g. Data Protection Officer or Caldicott Guardian, who will oversee the implementation of this protocol and subsequent revisions. They will also be a source of advice to employees of their agencies.

## **14. Practice Guidance:**

The Appendix to this protocol gives practical guidance on how information should be shared by telephone, fax, post, email and in writing. Further information about sharing information is available from the 'Information Sharing: Guidance for practitioners and managers' available at <http://www.education.gov.uk/schools/leadership/governance/becomingagovernor/rolesandresponsibilities/a0056705/information-sharing-guidance-for-practitioners-and-managers>

Further guidance has also been issued by the department of Health '*What to do if You are Worried a child is Being Abused*' which is available at <http://publications.education.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DFES-04320-2006&>

## **15. Training - Information Sharing / Common Assessment Framework / Local Preventative Groups**

Information Sharing training is delivered as part of the Common Assessment & Team Around the Child training which is available to all agencies working with Children and Young People. This training is also being delivered as an induction course to all new starters across the Children's workforce.

For further information on CAF & TAC please visit [www.swindon.gov.uk/cypsp](http://www.swindon.gov.uk/cypsp)

This guidance was approved by the Children's Trust Board in July 2010 with representatives from the following partners signing up to the protocol:

1. Elected Members representatives
2. Headteacher Associations representatives
3. Trade Union representative
4. School Governor representative
5. NHS Swindon representatives
6. Youth Forum representative
7. Voluntary Sector representative
8. Great Western Hospitals NHS Foundation Trust representative
9. Child and Adolescent Mental Health Services representative
10. Diocesan representative
11. Learning and Skills Council representative
12. Wiltshire Police representative
13. Swindon Borough Council Children Services representative
14. Swindon Borough Council Adult Services representative
15. Equalities representative
16. Community Safety representative
17. Schools Forum representative
18. Wiltshire Fire & Rescue Service representative
19. Local Safeguarding Children Board representative
20. Jobcentre Plus representative
21. Parent Advisory Group representative
22. Strategic Health representative
23. FE College & 6th Form representative
24. Sure Start Children's Centre representative
25. Wiltshire Probation representative

For further information about the Protocol, please refer to section 2 -Swindon Information Sharing Protocol