

## PERCY HEDLEY EDUCATION SERVICES

### Sharing Information Policy

#### Introduction

The Data Protection Act 1998 and human rights law are not barriers to justified information sharing, but provide a framework to ensure that personal information about living individuals is shared appropriately.

#### Purpose

1. There should be an honest approach with the individual (and/or their family where appropriate) from the outset about why, what, how and with whom information will, or could be shared, and seek their agreement, unless it is unsafe or inappropriate to do so.
2. Advice should be sought from other practitioners if you are in any doubt about sharing the information concerned, without disclosing the identity of the individual where possible.
3. Share with informed consent where appropriate and, where possible, respect the wishes of those who do not consent to share confidential information. You may still share information without consent if, in your judgement, there is good reason to do so, such as where safety may be at risk. You will need to base your judgement on the facts of the case. When you are sharing or requesting personal information from someone, be certain of the basis upon which you are doing so. Where you have consent, be mindful that an individual might not expect information to be shared.
4. Consider safety and well-being. Base your information sharing decisions on considerations of the safety and wellbeing of the individual and others who may be affected by their actions.
5. Necessary, proportionate, relevant, adequate, accurate, timely and secure. Ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those individuals who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely.
6. Keep a record of your decision and the reasons for it – whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose.

## **Scope**

### **Sharing Information**

Sharing information is an intrinsic part of any frontline practitioner's job when working with children and young people. The decisions about how much information to share, with whom and when, can have a profound impact on individuals' lives. It could ensure that an individual receives the right services at the right time and prevent a need from becoming more acute and difficult to meet.

Fears about sharing information cannot be allowed to stand in the way of the need to safeguard and promote the welfare of children at risk of abuse or neglect. No practitioner should assume that someone else will pass on information which may be critical to keeping a child safe.

## **Principles**

### **Being alert to signs of abuse and neglect and taking action**

All practitioners should be alert to the signs and triggers of child abuse and neglect. Abuse (emotional, physical and sexual) and neglect can present in many different forms. Indicators of abuse and neglect may be difficult to spot. Children may disclose abuse, in which case the decision to share information is clear. In other cases, for example, neglect, the indicators may be more subtle and appear overtime. In these cases, decisions about what information to share, and when, will be more difficult to judge. Everyone should be aware of the potential for children to be sexually exploited for money, power or status and individuals should adopt an open and inquiring mind to what could be underlying reasons for behaviour changes in children of all ages. If a practitioner has concerns about a child's welfare, or believes they are at risk of harm, they should share the information with the local authority children's social care, NSPCC and/or the police, in line with local procedures. Security of information sharing must always be considered and should be proportionate to the sensitivity of the information and the circumstances. If it is thought that a crime has been committed and/or a child is at immediate risk, the police should be notified without delay.

### **Legislative framework**

Key organisations who have a duty under section 11 of the Children Act 2004 to have arrangements in place to safeguard and promote the welfare of children are:

- the local authority;
- NHS England;
- clinical commissioning groups;
- NHS Trusts, NHS Foundation Trusts;
- the local policing body;
- British Transport Police Authority;
- Prisons;
- National Probation Service and Community Rehabilitation Companies
- youth offending teams; and
- bodies within the education and /or voluntary sectors, and any individual to the extent that they are providing services in pursuance of section 74 of the Education and Skills Act 2008.

There are also a number of other similar duties which apply to other organisations. For example, section 175 of the Education Act 2002 which applies to local authority education functions and to governing bodies of maintained schools and further education

institutions, and section 55 of the Borders, Citizenship and Immigration Act 2009 which applies to the immigration, asylum, nationality and customs functions of the Secretary of State (in practice discharged by UK Visas and Immigration, Immigration Enforcement and the Border Force, which are part of the Home Office).

Where there are concerns about the safety of a child, the sharing of information in a timely and effective manner between organisations can reduce the risk of harm. Whilst the Data Protection Act 1998 places duties on organisations and individuals to process personal information fairly and lawfully, it is not a barrier to sharing information where the failure to do so would result in a child or vulnerable adult being placed at risk of harm. Similarly, human rights concerns, such as respecting the right to a private and family life would not prevent sharing where there are real safeguarding concerns.

All organisations should have arrangements in place which set out clearly the processes and the principles for sharing information internally. In addition, these arrangements should cover sharing information with other organisations and practitioners, including third party providers to which local authorities have chosen to delegate children's social care functions, and the Local Safeguarding Children Board (LSCB).

In addition, the LSCB can require an individual or body to comply with a request for information, as outlined in section 14B of the Children Act 2004. This can only take place when the information requested is for the purpose of enabling or assisting the LSCB to perform its functions.

### **Necessary and proportionate**

When taking decisions about what information to share, you should consider how much information you need to release. The Data Protection Act 1998 requires you to consider the impact of disclosing information on the information subject and any third parties. Any information shared must be proportionate to the need and level of risk.

### **Relevant**

Only information that is relevant to the purposes should be shared with those who need it. This allows others to do their job effectively and make sound decisions.

### **Adequate**

Information should be adequate for its purpose. Information should be of the right quality to ensure that it can be understood and relied upon.

### **Accurate**

Information should be accurate and up to date and should clearly distinguish between fact and opinion. If the information is historical then this should be explained.

### **Timely**

Information should be shared in a timely fashion to reduce the risk of harm. Timeliness is key in emergency situations and it may not be appropriate to seek consent for information sharing if it could cause delays and therefore harm to a child. Practitioners should ensure that sufficient information is shared, as well as consider the urgency with to share it.

### **Secure**

Wherever possible, information should be shared in an appropriate, secure way. Practitioners must always follow their organisation's policy on security for handling personal information.

## **Monitoring and Review**

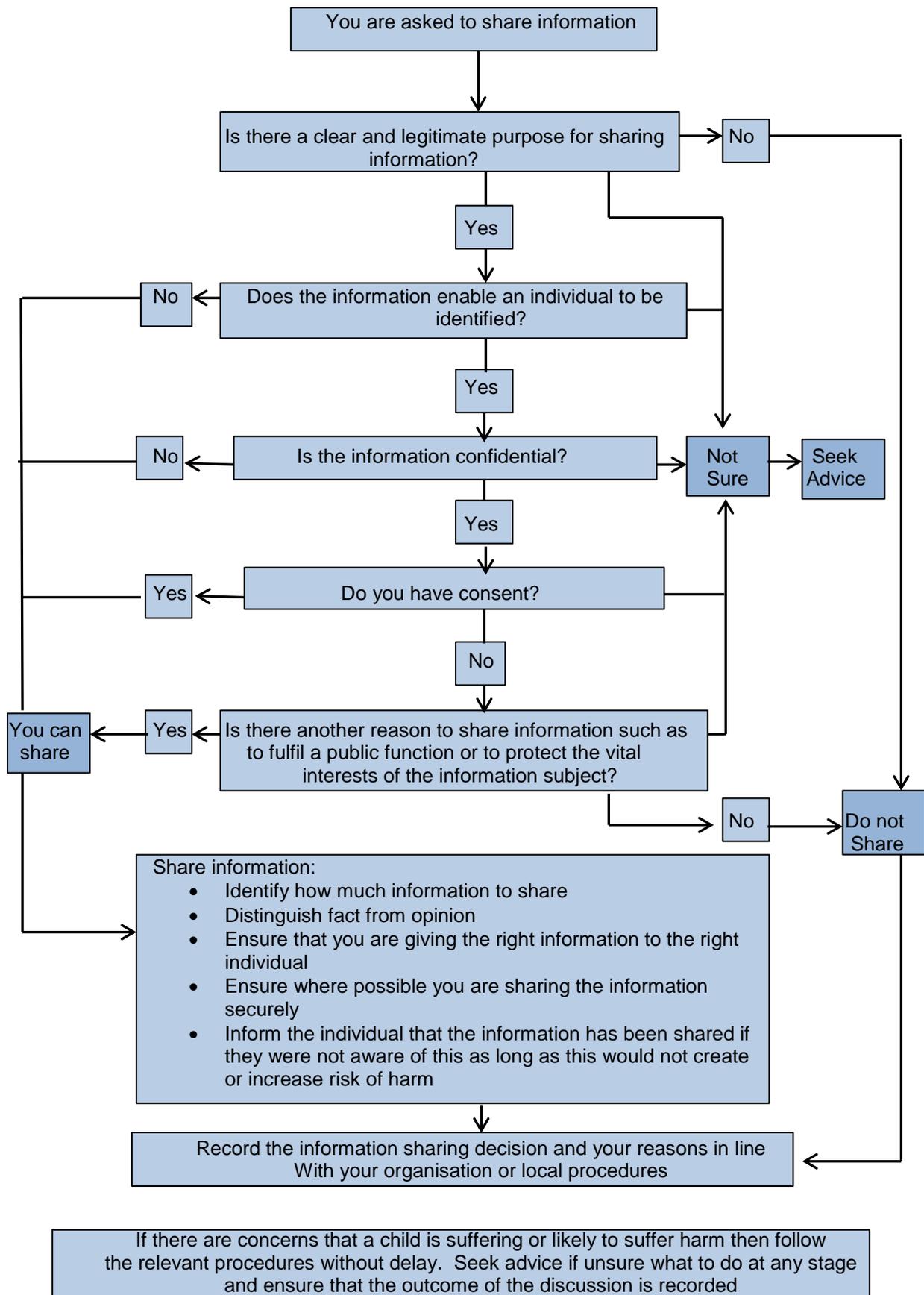
### **Record**

Information sharing decisions should be recorded whether or not the decision is taken to share. If the decision is to share, reasons should be cited including what information has been shared and with whom, in line with organisational procedures. If the decision is not to share, it is good practice to record the reasons for this decision and discuss them with the requester. In line with each organisation's own retention policy, the information should not be kept any longer than is necessary. In some circumstances this may be indefinitely, but if this is the case there should be a review process.

This policy should be monitored by the Education Business Manager biannually or if there is a change in legislation or guidance.

The Education Executive Team should consider changes and inform relevant Governing Boards.

## Flowchart of when and how to share information



## **Guidance**

The Data Protection Act 1998 does not prohibit the collection and sharing of personal information. It does, however, provide a framework to ensure that personal information about a living individual is shared appropriately. In particular, the Act balances the rights of the information subject (the individual whom the information is about) and the need to share information about them.

You do not necessarily need the consent of the information subject to share their personal information. Wherever possible, you should seek consent or be open and honest with the individual (and/or their family, where appropriate) from the outset as to why, what, how and with whom, their information will be shared. You should seek consent where an individual may not expect their information to be passed on and they have a genuine choice about this. Consent in relation to personal information does not need to be explicit - it can be implied where to do so would be reasonable, i.e. a referral to a provider or another service. More stringent rules apply to sensitive personal information, when, if consent is necessary then it should be explicit. But even without consent, or explicit consent, it is still possible to share personal information if it is necessary in order to carry out your role, or to protect the vital interests of the individual where, for example, consent cannot be given.

Also, if it is unsafe or inappropriate to do so, i.e. where there are concerns that a child is suffering, or is likely to suffer significant harm, you would not need to seek consent. A record of what has been shared should be kept.

### **Personal information collected by one organisation can be disclosed to another organisation**

Unless the information is to be used for a purpose incompatible with the purpose that it was originally collected for. In the case of a child at risk of significant harm, it is difficult to foresee circumstances where sharing personal information with other practitioners would be incompatible with the purpose for which it was originally collected.

In addition to considering the Data Protection Act 1998 local responders need to balance the common law duty of confidence and the rights within the Human Rights Act 1998 against the effect on individuals or others of not sharing the information.

If information collection and sharing is to take place with the consent (implied or explicit) of the individuals involved, providing they are clearly informed about the purpose of the sharing, there should be no breach of confidentiality or breach of the Human Rights Act 1998.

To overcome the common law duty of confidence, the public interest threshold is not necessarily difficult to meet - particularly in emergency situations. Confidential health information carries a higher threshold, but it should still be possible to proceed where the circumstances are serious enough.

Professional judgment is the most essential aspect of multi-agency work, which could be put at risk if organisations rely too heavily on IT systems. There are also issues around compatibility across organisations along with practitioners who may not have the knowledge/understanding of how to use them.

## Useful resources and external organisations

- ICO Data Sharing Code of Practice and checklists
- Centre of Excellence on Information Sharing
- Practice guidance on sharing adult safeguarding information
  
- **Other relevant departmental advice and statutory guidance**
- Working Together to Safeguard Children (2015)
- Keeping Children Safe in Education (2016)
- What to do if you're worried a child is being abused (2015)

## Other relevant legislation

### Section 14B Supply of information requested by LSCBs

- (1) If a Local Safeguarding Children Board established under section 13 requests a person or body to supply information specified in the request to :
  - (a) the Board, or
  - (b) another person or body specified in the request,the request must be complied with if the first and second conditions are met and either the third or the fourth condition is met.
- (2) The first condition is that the request is made for the purpose of enabling or assisting the Board to perform its functions.
- (3) The second condition is that the request is made to a person or body whose functions or activities are considered by the Board to be such that the person or body is likely to have information relevant to the exercise of a function by the Board.
- (4) The third condition is that the information relates to :
  - (a) the person or body to whom the request is made,
  - (b) a function or activity of that person or body, or
  - (c) a person in respect of whom a function is exercisable, or an activity is engaged in, by that person or body.
- (5) The fourth condition is that the information:
  - (a) is information requested by the Board from a person or body to whom information was supplied in compliance with another request under this section, and
  - (b) is the same as, or is derived from, information so supplied.
- (6) The information may be used by the Board, or other person or body to whom it is supplied under subsection (1), only for the purpose of enabling or assisting the Board to perform its functions.
- (7) A Local Safeguarding Children Board must have regard to any guidance given to it by the Secretary of State in connection with the exercise of its functions under this section.