

NORTH EAST LINCOLNSHIRE SAFEGUARDING CHILDREN BOARD
INFORMATION SHARING

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1. INTRODUCTION

Effective information-sharing underpins integrated working and is a vital element of both early intervention and safeguarding. Research and experience have shown repeatedly that keeping children safe from harm requires professionals and others to share information:

- About a child's health and development, and exposure to possible harm;
- About a parent who may need help, or may not be able to care for a child adequately and safely; and
- About those who may pose a risk of harm to a child.

Often, it is only when information from a number of sources has been shared and is then put together, that it becomes clear a child is suffering, or at risk of suffering, Significant Harm. However, when professionals share information at an early stage, this should reduce the likelihood of a child suffering Significant Harm.

Those providing services to adults and children, for example GP's, will be concerned about the need to balance their duties to protect children from harm and their general duty of care towards their patient or service user, e.g. a parent. Some professionals and staff face the added dimension of being involved in caring for or supporting more than one family member - the abused child, siblings, and an alleged abuser. In English Law, where there are concerns that a child is, or may be, at risk of significant harm, the overriding consideration is to safeguard the child.

"This guidance is applicable in all circumstances in which information is being shared relevant to children's safety, welfare and protection under our joint responsibilities within the Children act 1989, Section 11 Children Act 2004; Working Together to Safeguard Children 2015 and the Local Humber Information Sharing Charter. Where information being shared relates specifically to: Child Sexual Exploitation; Harmful Sexualised Behaviour; Allegations Management; Domestic Abuse; Neglect and/or any child protection issues that may also involve criminal investigations, all practitioners and agencies should ensure full consideration is given to the potential implications for ongoing criminal enquiries and evidence".

If staff are unsure about whether the threshold for significant harm to a child has been met, advice can be requested from senior colleagues, from the FFAP (Families First Access Point) Children's Social Care Assessment Team or staff at the Safeguarding Children Team. (see **Family Support Pathway and Threshold of Need Child Concern Model**).

2. THE CONCEPT OF INFORMATION SHARING

Working Together to Safeguard Children 2015 states that:

"Effective sharing of information between professionals and local agencies is essential for effective identification, assessment and service provision.

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Early sharing of information is the key to providing effective early help where there are emerging problems. At the other end of the continuum, sharing information can be essential to put in place effective child protection services. Serious Case Reviews (SCRs) have shown how poor information - sharing has contributed to the deaths or serious injuries of children.

Fears about sharing information cannot be allowed to stand in the way of the need to promote the welfare and protect the safety of children.” (Working Together 2015).

3. KEY POINTS FOR WORKERS WHEN SHARING INFORMATION

The general principle is that information will only be shared with the consent of the subject of the information. Front-line practitioners who provide services to children, young people and families often have to make decisions on sharing information with other practitioners about those they are involved with. This calls for professional judgment on a case-by-case basis.

This includes weighing up what might happen if the information is shared, against what might happen if it is not

There are seven golden rules for information sharing which should be followed by all organisations working with and providing services for children and their families: (see **Information sharing: advice for practitioners providing safeguarding services (March 2015)**).

THE SEVEN GOLDEN RULES FOR INFORMATION SHARING

1. Remember that the Data Protection Act 1998 and human rights laws are not barriers to justified information sharing but provide a framework to ensure that personal information about living individuals is shared appropriately;
2. Be open and honest 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;
3. Seek advice from other practitioners if you are in any doubt about sharing the information concerned, without disclosing the identity of the individual where possible;
4. 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 judgment 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;
5. 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;
6. Necessary, proportionate, relevant, 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 people who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely (Practitioners must always follow their organisation’s policy on security for handling personal information);
7. 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.

Source: **Information sharing: advice for practitioners providing safeguarding services (March 2015)**.

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Each situation should be considered on a case-by-case basis. Professionals should always seek advice from senior colleagues, including those in legal services, where clarity is required.

4. INFORMATION REQUESTED BY THE LSCB FOR THE PURPOSE OF ITS FUNCTIONS

Every LSCB should play a strong role in supporting information sharing between and within organisations and addressing any barriers to information sharing. This should include ensuring that a culture of information sharing is developed and supported as necessary by multi-agency training.

The core legislation underpinning the work of the LSCB is the Children Act 2004, which provides a comprehensive framework for the care and protection of children. Detailed statutory guidance is also contained in Working Together to Safeguard Children 2015.

Under section 14B of the Children Act 2004, the LSCB can require a person or body to comply with a request for information. This can only take place where the information requested is for the purpose of enabling or assisting the LSCB to perform its functions. This includes information required in respect of the Serious Case Review, Child Death Review and the Allegations Management Any request for information about individuals must be necessary and proportionate to the reasons for the request. LSCBs should be mindful of the burden of requests and should explain why the information is needed.

INFORMATION REQUESTED BY THE LSCB FROM SCHOOLS AS PART OF THE ALLEGATIONS

MANAGEMENT PROCESS

North East Lincolnshire Council's Safeguarding unit when making requests on behalf of the LSCB will request the information from the School Children Protection Officer (SCPO). The request will be made by secure e-mail to the SCPO, where this facility is not available the request will be sent in an encrypted or password protected document. Passwords will be provided to SCPO under separate arrangements.

When making a request for information about individuals, the Safeguarding unit will only ask for the information that is 'necessary' and 'proportionate' to the purposes of the LSCB as allowed by section 14B of the Children Act 2004.

ANSWERING REQUESTS FOR INFORMATION MADE ON BEHALF OF THE LSCB

School Children Protection Officer (SCPO) should answer the requests by secure e-mail to the Safeguarding unit, where this facility is not available the response should be sent in an encrypted or password protected document. Passwords should be provided to the Safeguarding unit under separate arrangements.

Secure transfer of LSCB information. LSCB information will be transferred to School Children Protection Officer either at LSCB meetings or by secure e-mail, where this facility is not available the response should be sent in an encrypted or password protected document, with passwords provided to under separate arrangements.

SECURITY AND PROTECTION OF LSCB INFORMATION

Schools must ensure that all LSCB case records are kept secure and protected at all times to prevent unauthorised access or loss. Clear screen and desk policies should be in place. Information should be stored in folders restricted to authorised users, or in locked storage areas or cabinets. Encrypted USBs should be used for the purpose of secure transportation, but not long-term storage. Documents taken out of the secure environment must be placed in closable folders, and remain with the designated officer at all times, they must never be left unattended.

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Retention and disposal of LSCB case records The primary records for the LSCB will be held by North East Lincolnshire Council's Safeguarding unit. The records held by schools will be secondary records and should be retained for as long as is necessary to meet their business requirements. In most cases this should be no longer than the school year following the 25th birthday of the pupil. All LSCB case records held by schools must be disposed of by controlled secure methods, it is recommended that this is either by cross cut shredding or incineration.

CORPORATE PARENTING - LOOKED AFTER CHILDREN

Where North East Lincolnshire Council is the 'corporate parent' for the looked after children in its care, they will receive the same information in relation to the child's education from the school as would any other parent or guardian with parental responsibility for a child. North East Lincolnshire Council will not seek from the school any information it is not entitled to.

5. GOVERNMENT GUIDANCE

Sharing confidential information without consent will normally be justified in the public interest in the circumstances shown in Section 4, Information Requested by the LSCB for the Purpose of its Functions.

Information sharing: advice for practitioners providing safeguarding services (March 2015) states that:

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. (P13).

It is also possible that an overriding public interest would justify disclosure of the information (or that sharing is required by a court order, other legal obligation or statutory exemption). 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. As is the case for all personal information processing, initial thought needs to be given as to whether the objective can be achieved by limiting the amount of information shared – does all of the personal information need to be shared to achieve the objective? (P14).

Working Together 2015 states that:

"... all organisations should have arrangements in place which set out clearly the processes and the principles for sharing information between each other, with other professionals and with the LSCB; and no professional should assume that someone else will pass on information which they think may be critical to keeping a child safe. If a professional has concerns about a child's welfare and believes they are suffering, or likely to suffer, harm, then they should share the information with local authority children's social care.

Information Sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers (2015) supports frontline practitioners working in child or adult service who have to make decisions about sharing personal information on a case-by-case basis." (P17).

Where there is a clear risk of significant harm to a child, or serious harm to adults, the public interest test will almost certainly be satisfied. However, there will be other cases where practitioners will be justified in sharing

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some confidential information in order to make decisions on sharing further information or taking action. The information shared should be proportionate. Decisions in this area need to be made by, or with the advice of, people with suitable competence in Child Protection work such as named or designated professionals or senior managers.

THE DATA PROTECTION ACT 1998 REQUIRES THAT:

Personal information is obtained and processed fairly and lawfully; only disclosed in appropriate circumstances; is accurate, relevant and not held longer than necessary; and is kept securely.

The relevant issues for social workers are usually around sharing information where consent has been withheld. There is a public interest defence if sharing information is for the purposes of safeguarding a child or vulnerable person.

CALDICOTT GUARDIAN PRINCIPLES:

A Caldicott Guardian is a senior person responsible for protecting the confidentiality of patient and service-user information and enabling appropriate information-sharing. The Guardian plays a key role in ensuring that the NHS, Local Authority Social Services Departments and partner organisations satisfy the highest practicable standards for handling patient identifiable information. Since Caldicott Guardians were established, key legislation including: the Data Protection Act 1998, Human Rights Act 1998, Public Interest Disclosure Act 1998, Audit Commission Act 1998, Terrorism Act 2000, section 60 of the Health and Social Care Act 2001 and Regulation of Investigatory Powers Act 2000, and The Freedom of Information Act 2000 have become law which has extended the role and responsibility of the Caldicott Guardian.

The Seven Caldicott Principles:

1. Justify the purpose(s) for using confidential information;
2. Don't use personal confidential data unless it is absolutely necessary;
3. Use the minimum necessary personal confidential data;
4. Access to personal confidential data should be on a strict need-to-know basis;
5. Everyone with access to personal confidential data should be aware of their responsibilities;
6. Comply with the law;
7. The duty to share information can be as important as the duty to protect patient confidentiality.

These are applicable to children's services and health services. They have more recently been extended into councils with social care responsibilities, in order to provide a framework for working within the Data Protection Act 1998 and to promote appropriate information sharing.

Every local Health Service and children's services has its own Caldicott Guardian, to provide advice and guidance on appropriate information sharing.

For North East Lincolnshire Council the name Caldicott Guardian is Stephen Pintus who can be contacted on transparency@nelincs.gov.uk

SECTION 115 OF THE CRIME AND DISORDER ACT 1998 ESTABLISHES

The power to disclose information is central to the Act's partnership approach. The Police have an important general power under common law to disclose information for the prevention, detection and reduction of crime. However, some other public bodies that collect information may not previously have had power to disclose it to the Police and others. This section puts beyond doubt the power of any organisation to disclose information to Police authorities, local authorities, Probation Provider, Health Authorities, or to persons acting on their behalf, so

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long as such disclosure is necessary or expedient for the purposes of crime prevention. These bodies also have the power to use this information.

THE DOMESTIC VIOLENCE DISCLOSURE SCHEME

The Domestic Violence Disclosure Scheme (DVDS) commenced on 8 March 2014. The DVDS gives members of the public a formal mechanism to make enquires about an individual who they are in a relationship with, or who is in a relationship with someone they know, where there is a concern that the individual may be violent towards their partner. This scheme adds a further dimension to the information sharing about children where there are concerns that domestic violence and abuse is impacting on the care and welfare of the children in the family.

Members of the public can make an application for a disclosure, known as the 'right to ask'. Anybody can make an enquiry, but information will only be given to someone at risk or a person in a position to safeguard the victim. The scheme is for anyone in an intimate relationship regardless of gender.

Partner agencies can also request disclosure is made of an offender's past history where it is believed someone is at risk of harm. This is known as 'right to know'.

If a potentially violent individual is identified as having convictions for violent offences, or information is held about their behaviour which reasonably leads the police and other agencies to believe they pose a risk of harm to their partner, a disclosure will be made.

For further information see the **Metropolitan Police website**.

ARTICLE 8 IN THE EUROPEAN CONVENTION ON HUMAN RIGHTS STATES THAT

Everyone has the right to respect for his/her private and family life, home and correspondence;

There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of rights and freedoms of others.

AGE ASSESSMENT INFORMATION SHARING FOR UNACCOMPANIED ASYLUM SEEKING CHILDREN

The issue of age assessment in social work with asylum seeking young people remains controversial and has been something that Children's social care have struggled with since the millennium. The ADCS Asylum Task Force has worked with the Home Office to provide two new jointly agreed documents, as detailed below. These documents are offered as practice guidance, by way of assistance to local authorities and their partners. The use of the proforma and consent form is voluntary. The content does not, nor does it seek to, be binding on local authorities. It is simply a recommended approach.

See **ADCS Age Assessment Information Sharing for UASC**.

6. CHILD SEX OFFENDER DISCLOSURE SCHEME

The Child Sex Offender Review (CSOR) Disclosure Scheme is designed to provide members of the public with a formal mechanism to ask for disclosure about people they are concerned about, who have unsupervised access to children and may therefore pose a risk. This scheme builds on existing, well established third-party disclosures that operate under the Multi-Agency Public Protection Arrangements (MAPPA).

Police will reveal details confidentially to the person most able to protect the child (usually parents, carers or guardians) if they think it is in the child's interests.

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The scheme has been operating in all 43 police areas in England and Wales since 2010. The scheme is managed by the Police and information can only be accessed through direct application to them.

If a disclosure is made, the information must be kept confidential and only used to keep the child in question safe. Legal action may be taken if confidentiality is breached. A disclosure is delivered in person (as opposed to in writing) with the following warning:

- 'That the information must only be used for the purpose for which it has been shared i.e. in order to safeguard children;
- The person to whom the disclosure is made will be asked to sign an undertaking that they agree that the information is confidential and they will not disclose this information further;
- A warning should be given that legal proceedings could result if this confidentiality is breached. This should be explained to the person and they must sign the undertaking' (Home Office, 2011, p16).

If the person is unwilling to sign the undertaking, the police must consider whether the disclosure should still take place.