

APPENDIX C

INFORMATION SHARING

1. GUIDANCE

Information Sharing: Guidance for Practitioners and Managers [DCSF 2008]

Information Sharing: Further Guidance on Legal Issues [DCSF 2009]

These will be found at

www.education.gov.uk/publications/standard/publicationDetail/Page1/DCSF-00807-2008

2. SHARING INFORMATION WITHOUT CONSENT

- 2.1 There is clear justification for sharing information with or without consent when there is reasonable cause to suspect that a child is at risk of significant harm. The issues are more complex in the absence of specific concerns about the safety of any particular child. This Appendix sets out the framework within which decisions may be made about whether and how to share information,

3. PRINCIPLES

- 3.1 All agencies and practitioners should be aware of the seven “golden rules” of information sharing:
- Remember that the Data Protection Act is not a barrier to sharing information. It provides a framework to ensure that personal information about living persons is shared appropriately.
 - Be open and honest with the person/family from the outset about why, what, how and with whom information could be shared, and seek their agreement, unless it is unsafe or inappropriate to do so.
 - Seek advice if you are in any doubt – without disclosing the identity of the person if possible.
 - Share information with consent where appropriate and, where possible, respect the wishes of those who do not consent to share information. You may share information without consent if, in your judgement, that lack of consent can be overridden in the public interest, for example if a child appears to be at risk of significant harm.
 - Base your information sharing decisions on the safety and well-being of the child and others.

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- 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.
- Keep a record of your decision and the reasons for it. If you decide to share information, record what you have shared, with whom and for what purpose.

4. THE DECISION TO SHARE (OR NOT TO SHARE) INFORMATION

4.1 The decision whether or not to share information will involve considering the following questions –

- Is there a clear and legitimate purpose for sharing information?
For example, the protection of a child from harm.
- Is there a statutory duty or court order to share the information (See Paragraph 5.6)?
- Does the information enable a living person to be identified?
If not, the information may be shared freely - for example, consultation without identifying the persons concerned.
- Is the information confidential (See Paragraph 5.1)?
- If the information is confidential, has consent to share it been given (See Paragraphs 6.1 - 3)?
- If consent is refused, or there are good reasons not to seek consent, is there a sufficient public interest to share the information (See Paragraphs 5.2 - 5)?
- Is the information being shared appropriately and securely (See Paragraph 4.2)?
- Has the decision been properly recorded (See Paragraph 4.3)?

4.2 If the decision is to share information, then it must be shared in the correct way. This means that the person sharing the information must:

- Be clear about why it is necessary to share information;
- Share only the information necessary for this purpose;
- Understand the limits of any consent given, especially if the information has been provided by a third party;
- Distinguish clearly between fact and opinion;

- Share the information only with the person or people who need to know;
 - Check that the information is accurate and up to date;
 - Share it in a secure way
For example, confirm the identity of the person you are talking to; ensure that a conversation or phone call cannot be overheard; use secure email; ensure that the intended person will be on hand to receive a fax.
 - Establish with the recipient whether they intend to pass it on to other people and ensure that they understand the limits of any consent that has been given; and
 - Inform the person to whom the information relates, and the person who provided the information if different, if it is safe to do so.
- 4.3 Every decision to share, or not to share, information, and the reasons for the decision, should be recorded. The record should show what information was shared, when and with whom.
- 4.4 **If there is concern about the safety of a child, then information must be shared in line with these procedures.**

5. CONFIDENTIALITY AND THE PUBLIC INTEREST

- 5.1 Confidential information is information which is in some way sensitive, which is not already lawfully in the public domain or readily available from another public source, and which has been shared in a relationship in which the person giving the information could reasonably expect that it would not be shared with others. The duty of confidence is breached when confidential information is shared, and the sharing has not been authorised by the person who provided the information or the person to whom it relates.
- 5.2 If the person concerned has not given consent, information may still be shared if this can be justified in the public interest. Seeking consent should be the first option considered, but sometimes consent cannot be obtained, or is refused, or seeking consent would be likely to undermine the purpose of the proposed sharing. In these circumstances the practitioner must make a judgement about whether there is an overriding public interest to justify sharing the information without consent.
- 5.3 An overriding public interest is established if sharing the information would serve a legitimate purpose (for example the protection of children from abuse or the prevention or detection of crime), and **in this case** the importance of that purpose outweighs the importance of maintaining confidentiality.

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- 5.4 There will also be times when sharing limited information without consent is justified to enable practitioners to reach an informed decision about whether further information should be shared.
- 5.5 The key factor in deciding whether or not to share confidential information without consent is proportionality – this will involve weighing up what might happen if the information is shared against what might happen if it is not. Sharing information will normally be justified in the public interest if –
- There is evidence or reasonable cause to believe that a child is suffering, or is at risk of suffering, significant harm; or
 - There is evidence or reasonable cause to believe that an adult is suffering, or is at risk of suffering, serious harm; or
 - It is necessary to prevent significant harm to a child or serious harm to an adult, including through the prevention, detection and prosecution of serious crime.
- 5.6 In some situations a practitioner or agency is required by law to share information because of a statutory duty or a court order. In these situations the information must be shared, even if it is confidential information and consent has not been given, unless in the case of a court order, the agency is prepared to challenge the order.

6. CONSENT TO INFORMATION SHARING

- 6.1 Explicit consent may be given in writing or orally. Consent may also be implicit, for example when a person asks a practitioner to carry out a task which cannot be done without sharing information. Explicit written consent is preferable as it reduces the scope for later disputes about the terms of the consent.
- 6.2 When consent is given, the practitioner should ensure that the terms of the consent are clear – what information may be shared, and with whom, and whether consent is specifically withheld for sharing particular information or sharing information with a particular person or agency.
- 6.3 The practitioner should record the consent given and any limits on it and if possible obtain the person's signature on this record. A signed statement should also be obtained if the person gives a blanket refusal of consent to share any information.
- 6.4 Every decision to share, or not to share, information, and the reasons for the decision, should be recorded. The record should show what information was shared, when and with whom.