

Project Phoenix

Child Sexual Exploitation Information Sharing Protocol Template

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Key Messages

- The welfare of a child or young person must be the first consideration in all decision making about information sharing.
- Professionals can only work together to safeguard and promote the welfare of children and young people if they share relevant information.
- Only share as much information as is needed but share enough to achieve the purpose for which information is being shared.
- Recognise that where a child, young person or family needs the support of a number of different agencies, information sharing will be an ongoing process.
- It is best practice to obtain consent to share information, although there are exceptions to this in child protection cases, for example, situations where a child would be considered to be at risk of significant harm or a Police investigation into a serious offence would be prejudiced.

Purpose of the Protocol

The purpose of this information sharing protocol is to provide a framework for the appropriate sharing of information between partners. The protocol informs all partners about the circumstances when information is shared and how the sharing of information will be managed.

What is an Information Sharing Protocol?

The protocol governs the sharing of information and in doing so it:

- Clarifies the legal background in respect of information sharing
- Sets out the current codes of practice, best practice and guidance
- Outlines the principles of the process of information sharing
- Provides practical guidance on how to share information

Who does the Information Sharing Protocol affect?

The protocol affects all staff engaged with work that requires information to be shared with or is given to them by other organisations.

The benefits of this Information Sharing Protocol

- Help remove barriers to effective information sharing.
- Provide guidance to assist in complying with legislation.
- Help to ensure that consent to share personal information is obtained whenever it is required.
- Help to ensure that information is shared when there is a requirement to do so.

- Help to ensure that all agencies comply with relevant legislation.
- Raise awareness amongst all agencies of the key issues relating to information sharing and give confidence in the process of sharing information with others.

Principles of Information Sharing

Effective information sharing underpins integrated working and is a vital element of both early intervention and safeguarding. Each partner can hold different pieces of information which need to be placed together to enable a thorough assessment to be made.

To share information about a person you need a clear and legitimate purpose to do so, as this will determine whether the information sharing is lawful. For partners working in statutory services, the sharing of information must be included within the powers of the service. This will also apply if partners from the voluntary sector are contracted to provide a service on behalf of a statutory body.

Obtaining and sharing information

The sharing of information must have due consideration with the law relating to confidentiality, data protection and human rights. Having a legitimate purpose for sharing information is an important part of meeting those legal requirements. It is important only to share as much information as is needed and records should be accurate, relevant and up to date.

Confidential information

Confidential information is:

- Private or sensitive personal information.
- Information which is not already lawfully in the public domain or readily available from another public source.
- Information that has been shared in circumstances where the person giving the information could reasonably expect that it would not be shared with others.

This is a complex area and you should seek advice from your organisation's Information Manger if you are unsure about confidentiality.

Signatories to the protocol may lawfully share confidential information without obtaining consent if this can be justified in the public interest. Judgement is required on whether there is sufficient public interest using the facts of each case individually. Public interest can arise when protecting children from significant harm, promoting the welfare of children or preventing crime and disorder.

Proportionality and necessity are factors to be taken into consideration when deciding whether or not to share confidential information. In making the decision, practitioners must

weigh up what might happen as a result of the information being shared against what might happen if it is not and apply their professional judgement.

The nature of the information to be shared is also significant where the information is sensitive and has implications for the practitioner's relationship with the individual, recognising the importance of sharing information in a timely manner if it is in the child best interest to do so.

Where there is a clear risk of significant harm to a child the public interest test will almost certainly be satisfied.

Obtaining consent

Consent must be informed, in other words the person giving consent needs to understand:

- Why the information needs to be shared.
- Who will see it.
- How much will be shared.
- What are the purposes and implications of sharing.

It is good practice for signatories to set out their policy on sharing information when clients first join a service and when securing information, the process should be transparent and respect the individual. Consent must not be obtained by coercion and must be sought again if there are to be significant changes in the use to be made of the information.

A child or young person, who is able to understand and make their own decisions, may give or refuse consent to share information. This would generally include children aged over 12, although younger children may have sufficient understanding. The child's view should be sought as far as possible. If a child is competent to give consent or refusal but a parent disagrees each individual case should be considered and again professional judgement should be applied.

When assessing a child's ability to understand, practitioners should explain in a way suited to their age, language and likely understanding. Where a child cannot consent, a person with parental responsibility should be asked to do so, on their behalf, although there are circumstances where this might be inadvisable. Where parenting is shared only one person with parental responsibility for a child needs to give consent.

It may not be appropriate to let a person know that information about them is being shared nor to seek their consent to share the information. For example, this would arise when sharing information is likely to hamper the prevention or investigation of a serious crime or put a child at risk of significant harm.

In these circumstances, practitioners need not seek consent from the person or their family nor inform them that the information will be shared.

Similarly, consent need not be sought when practitioners are required to share information through a statutory duty or court order. However, in most circumstances they should inform

the person concerned that they are sharing the information, why they are doing so and with whom.

Sharing Information Appropriately and Securely

Information should be shared in accordance with the principles of the Data Protection Act 1998 and follow the policy and procedures of the signatory service.

Practitioners should:

- Only share the information which is necessary for the purpose.
- Understand the limits of any consent given, particularly if it is from a third party.
- Distinguish between fact and opinion.
- Only share it with the person or people who need to know and check that the information is accurate and up to date.
- Record decisions on sharing information and the reasons for doing so or not.
- If deciding to share the information, record what was shared and with whom.
- Retaining and storing Information.

Information must not be retained for longer than necessary for the purpose for which it was obtained. Signatory services should ensure that they have physical and electronic security in place for the stored data and that there is awareness, training and management of the systems where the information is stored.

Regular review

This protocol will be reviewed at least annually and amended to take account of changes in law, guidance and lessons learned from sharing data.

Checklist

- Do I already have informed consent to share this information?
- Is the information sensitive and personal?
- Do I need consent to share the information?
- Have I a legal duty or power to share the information?
- Whose consent is needed?
- Whose information is this?
- Would seeking consent place someone at risk, prejudice a Police investigation, or lead to unjustifiable delay?
- Would sharing the information without consent cause more harm than not sharing the information?
- How much information is it necessary to share in this situation?
- Am I giving this information to the right person?
- Am I sharing this information in a secure way?
- Does the person I am giving it to know that it is confidential?
- What will they do with it?
- Is the service user aware that the information is being shared (where this would not place someone at risk or prejudice a Police investigation)?
- Have I distinguished between fact and opinion?
- Does the person who is giving consent understand the possible consequences of sharing the information?

Legislation/Guidance

- The Data Protection Act 1998
- The Human Right Act 2000
- The Children Act 2004
- The Crime & Disorder Act 1998
- Freedom of Information Act 2000
- NHS Act 2006
- Working Together 2013
- Protocol and Good Practice Model 2013