

### 3 Information Sharing and Confidentiality

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 at risk of suffering significant harm.

Those providing services to adults and children, for example GPs, 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, eg 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.**

If staff are unsure whether the threshold for significant harm to a child has been met, advice can be requested from senior colleagues, the Children's Social Care, Social Care Access Team on (01709) 823987 or staff in the Safeguarding Children Unit on (01709) 822390.

#### 3.1 The Concept of Information Sharing

Working Together to Safeguard Children 2006 states that "Safeguarding and promoting the welfare of children – and in particular protecting them from significant harm depends upon effective joint working between agencies and professionals that have different roles and expertise. Individual children, especially some of the most vulnerable children and those at greatest risk of social exclusion, will need co-ordinated help from Health, Education, Children's Social Care and quite possibly the voluntary sector and other agencies, including youth justice services".

#### 3.2 Key Points for Workers when Sharing Information

- You should explain to children, young people and families at the outset, openly and honestly, what and how information will, or could be shared and why, and seek their agreement. The exception to this is where to do so would put that child, young person or others at increased risk of significant harm or an adult at risk of serious harm, or if it would undermine the

prevention, detection or prosecution of a serious crime<sup>7</sup> including where seeking consent might lead to interference with any potential investigation

- You should always consider the safety and welfare of a child or young person when making decisions on whether to share information about them. Where there is concern that the child may be suffering or is at risk of suffering significant harm, **the child's safety and welfare should be the overriding consideration**
- You should, where possible, respect the wishes of children, young people or families who do not consent to share confidential information. You may still share information, if in your judgement on the facts of the case there is sufficient need to override that lack of consent
- You should seek advice where you are in doubt, especially where your doubt relates to a concern about possible significant harm to a child or serious harm to others from the Children's Social Care Social Care Access Team on (01709) 823987 or staff in the Safeguarding Children Unit on (01709) 822390
- You should ensure that the information you share is accurate and up-to-date, necessary for the purpose for which you are sharing it, shared only with those people who need to see it, and shared securely
- You should **always record** the reasons for your decision – whether it is to share information or not. There must be an audit trail
- 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
- If you have concerns about a colleague who you think may be abusing a child in any way, please contact the Rotherham Safeguarding Children Unit on Service on 01709 822390 or the Local Authority Designated Officer on 01709 823977. Either of these points of contact will talk through the situation with you and advise you what action should be taken.

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<sup>7</sup> Serious crime means any crime that causes or is likely to cause significant harm to a child or young person or serious harm to an adult

### 3.3 Government Guidance

**'Sharing Information: Practitioners' Guide'<sup>8</sup> states that:**

*Sharing confidential information without consent will normally be justified in the public interest in the following circumstances:*

- when there is evidence that the child is suffering or is at risk of suffering significant harm or
- where there is reasonable cause to believe that the child is suffering or is at risk of suffering significant harm or
- to prevent serious crime, ie significant harm, arising to children and young people or serious harm<sup>9</sup> to adults, including through the prevention, detection and prosecution of serious crime

**Working Together 2006 states that:**

In deciding whether there is a need to share information, professionals need to consider their legal obligations, including whether they have a duty of confidentiality to the child.

Where there is such a duty, the professional may lawfully share information if the child consents, or if there is a public interest of sufficient force. The professional must judge this, based on the facts of each case.

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 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.

For further information, see 'What to do when you think a Child is being Abused'<sup>10</sup> (Appendix 3.12) and locally agreed information sharing Protocols.

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<sup>8</sup> DfES 2006

<sup>9</sup> Serious harm can be either physical or mental trauma to an adult

<sup>10</sup> Department of Health 2003

**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.

**Caldicott Standards:**

Are applicable to Children and Young People's Directorate and Health Trust. These standards have applied to NHS organisations for some time. 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.<sup>11</sup>

Every local Health Service and Children and Young People's Directorate has its own Caldicott Guardian, to provide advice and guidance on appropriate information sharing.

**Section 115 in the Crime & 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 Service, Health Authorities, or to persons acting on their behalf, so long as such disclosure is necessary or expedient for the purposes of crime prevention. These bodies also have the power to use this information.

**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.

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<sup>11</sup> Health Service Circular/LAC circular HSC 2002/003/LAC 2002(2) 'Implementing the Caldicott Standards into Social Care'

For further information please refer to  
[www.ecm.gov.uk/informationsharing](http://www.ecm.gov.uk/informationsharing).

**Safer Recruitment Guidance:**

'Safeguarding Children and Safer Recruitment in Education' (2006) outlines the responsibilities of all local authorities, schools and Further Education colleges to safeguard and promote the welfare of children and young people, in relation to recruitment of staff, contractors and volunteers from January 2007. 'Statutory Guidance on Making Arrangements to Safeguard and Promote the Welfare of Children under Section 11 of the Children Act 2004' also provides guidance in relation to the duties of LSCB partners when recruiting and employing staff.

***NEVER DELAY EMERGENCY ACTION  
TO PROTECT A CHILD  
FROM HARM***