## Key Principles of Information Sharing:

- Identify how much information to share
- Distinguish fact from opinion
- Ensure that you are giving the right information to the right person
- Ensure you are sharing the information securely
- Inform the person that the information has been shared, if they were not aware of this, and that it would not create or increase risk of harm.

Record the information sharing decision and your reasons, in line with your agency’s or local procedures.

If there are concerns that a child may be at risk of significant harm; or an adult may be at risk of serious harm, then follow the relevant procedures without delay.

Seek advice if you are not sure what to do at any stage and ensure that the outcome of the discussion is recorded.

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*Ref: Information Sharing: Guidance for Practitioners and Managers HM Government 2008*

“Information sharing is the cornerstone of delivering shared understanding of the issues and arriving at shared solutions ... The right information enables partners to carry out evidence-based, targeted community safety interventions and to evaluate their impact. The improved outcome of an intelligence led, problem-solving approach to community safety can only be achieved when partners have access to relevant, robust and up-to-date information from a broad range of sources.”


Information sharing is key to the Government’s goal of delivering better, more efficient public services that are co-ordinated around the needs of the individual. It is essential to enable early intervention and preventative work, for safeguarding and promoting welfare and for wider public protection. Information sharing is a vital element in improving outcomes for all.

This document, must underpin the exchange of information between agencies for the purpose of safeguarding adults in Southampton, Hampshire, Isle of Wight and Portsmouth.

This document does not give agencies an automatic right to receive information or a mandate to provide information, but is instead a process for information sharing in cases in which it is suitable for information to be shared. Sharing information about individuals between public authorities is often essential if adults at risk are to be kept safe or to ensure they receive appropriate services. The sharing of information must only happen when it is legal and necessary to do so and adequate safeguards are in place to protect the security of the information.
To feel confident about making information sharing decisions, it is important that managers and staff:

- understand and apply good practice in sharing information at an early stage as part of preventative or early intervention work
- understand what information is and is not confidential, and the need in some circumstances to make a judgement about whether confidential information can be shared, in the public interest, without consent
- understand what to do when they have reasonable cause to believe that a child may be suffering, or may be at risk of suffering, significant harm
- are clear under what circumstances information can be shared where they judge that a child is at risk of significant harm
- understand what to do when they have reasonable cause to believe that an adult may be suffering, or may be at risk of suffering, serious harm
- are clear of the circumstances when information can be shared where they judge that an adult is at risk of serious harm
- are supported by their employer in working through these issues.

The effective and timely sharing of information is essential to deliver high quality services focused on the needs of the individual. Across Southampton, Hampshire, Isle of Wight and Portsmouth (SHIP) we encourage a culture where information is shared with confidence as part of routine service delivery. Sharing information is vital to prevent and detect crime and to ensure that our communities are protected from abuse, neglect or exploitation.

It is accepted from practice, experience and research that the sharing of information between professionals helps to ensure that adults and children in need and at risk receive the care, protection and support they need.

Sharing personal information between partner agencies is vital to the provision of co-ordinated and seamless care for individuals.

Legislation does not prevent the sharing of information between agencies delivering services, although there are important rules and safeguards to be observed.

The 4LSAB Multi-agency Information Sharing Protocol is the overarching agreement which underpins information sharing between agencies and organisations across 4LSAB.

This Protocol is an agreed set of principles about sharing personal or confidential information. It enables each agency or organisation signed up to the protocol to understand the circumstances in which it should share information and what its responsibilities are. The Protocol has been developed in partnership with representatives from the 4LSAB Safeguarding Adults Boards.

Information sharing therefore supports three important aspects of multi-agency safeguarding working:

- **Understanding the problem** – understanding the issues associated with abuse within families and in institutional settings and tackling the issues associated with crime, domestic abuse, anti-social behaviour, hate crime, etc. To understand the problem requires information to be brought together from a range of agencies. This involves exploring patterns relating to the problem, and then deciding on tactical, investigative or strategic responses to support those who are vulnerable to abuse and to manage the
most harmful and problematic individuals.

- **Multi-agency in content, multi-agency in outlook** – considering the problem using information from a range of agencies rather than just one agency leads more naturally to a multi-agency response. If the problem is only considered from the viewpoint of a single agency, then the natural reaction is often for that agency to be considered as the only one that is in a position to tackle the problem. The inclusion of information from a range of agencies helps them to identify the role that they can play in responding to the problem and delivering a more joined-up approach to addressing it.

- **Supporting partnership working** – if the problem is considered using a range of agency information, this tends to overcome the reliance on one agency as the single source of information and sole purveyor of a solution to the problem. Relying on just one agency to provide information and respond to the problem with little input from other agencies can undermine the spirit of partnership working. Information sharing helps to foster and improve inter-agency relationships and leads to a more co-ordinated response around the vulnerable adult.

### When can information be shared?

It is best practice to obtain consent from the individual at the referral or assessment stage of the adult safeguarding process.

However, obtaining consent is not always possible or consent may be refused. Not obtaining consent, or the refusal to give consent, must not be used as a reason for not sharing information. An individual's personal information can be disclosed without consent if there is an overriding 'legitimate purpose' and it is in the 'public interest' to disclose.

Staff must always consider the safety and welfare of the person at risk when making decisions on whether to share information about them. For example, where there is concern that an adult may be suffering, or is at risk of suffering, serious harm, the adult's safety and welfare must be the overriding consideration.

**Legitimate purposes include:**

- preventing serious harm to an adult (to self or others) - including through prevention, detection and prosecution of a serious crime
- providing urgent medical treatment to an adult
- implementing the Department of Health’s ‘No Secrets’ agenda – which aims to protect persons at risk from abuse.

**Public interest includes:**

- when there is evidence or reasonable cause to believe that an adult is suffering, or it at risk of suffering, serious harm
- to prevent the adult from harming someone else
- the promotion of the welfare of the adult
- detecting crime
- apprehending offenders
- maintaining public safety
- administration of justice.
The impact of sharing or withholding information

There may be anxieties about the legal or ethical restrictions on sharing information, particularly with other agencies. There should, however, be an awareness of the law and agencies and their staff should comply with their relevant professional codes of conduct, the 4LSAB Multi-agency Procedures and other relevant agency guidance. These rarely provide an absolute barrier to disclosure. A failure to pass on information that might prevent a person at risk from being abused or a more serious tragedy could expose agencies/staff to criticism in the same way as an unjustified disclosure.

Failure to share information may also have a significant impact on the wider community - for example hate crime, honour based violence, domestic abuse - and on the records of personal information relating to the individual, location, circumstances of the alleged offence, previous criminal offences, health record, details of other members of the community, housing records, family relatives and providers of regulated services including statutory agencies.

A decision whether to disclose information may be particularly difficult if a staff member thinks it may damage the trust between themselves and the vulnerable adult. If such concerns arise, advice should be sought from a senior colleague, designated professional, Information Governance/Data Protection Officer, Legal Personnel. If working in the NHS or local authority social services, this also includes the Caldicott Guardian.

The ‘Golden Rules’

It is a requirement of the 4LSAB Safeguarding Adults Information Sharing Protocol that all agencies and staff adhere to the ‘Golden Rules’ for information sharing in all instances of information exchange. These are:

• confirm the identity of the person you are sharing with
• obtain consent to share if safe, appropriate and feasible to do so
• confirm the reason the information is required
• be fully satisfied that it is necessary to share
• check with a manager/specialist or seek legal advice if you are unsure
• don’t share more information than is necessary
• inform the recipient if any of the information is potentially inaccurate or unreliable
• ensure that the information is shared safely and securely
• be clear with the recipient about how the information will be used
• record what information is shared, when, with whom and why; and if you decide not to share, record your reasons.

What are the legal requirements which underpin the ‘Golden Rules’?

The decision whether to disclose information may arise in various contexts. There may be a concern about a person at risk that might be allayed or confirmed if shared with another agency. A staff member may be asked for information in connection with, for example, a crime, an assessment of the needs of a person at risk under S47 of the NHS and Community Care Act 1990 or an assessment under the Mental Health Act 1983. In all cases the main legislation which underpins the sharing of information in relation to persons at risk
is:

- Common Law Duty of Confidentiality
- Data Protection Act 1998
- Human Rights Act 1998
- Freedom of Information Act 2000
- Crime and Disorder Act 1998

Each of these pieces of legislation has to be considered separately when deciding whether information can be shared. Other statutory provisions may also be relevant. But in general, the law will not prevent the sharing of information with other agencies / staff members if:

- those likely to be affected consent; or
- the public interest in safeguarding the vulnerable adult’s welfare overrides the need to keep the information confidential; or
- disclosure is required under a court order or other legal obligation.

Confidential information

Confidential information is covered by the Common Law Duty of Confidence. It applies to any information that has been received or accessed in circumstances where it is reasonable to expect that the information will be kept secret or should only be shared with a limited number of specific people.

The key principle to sharing confidential information is that any information confided should not be used for any other purpose or disclosed further, except as originally understood by the confider or with their subsequent permission.

The duty is not absolute and the disclosure of confidential information can be justified if:

- the information is not confidential in nature
- the person to whom the Duty of Confidence is owed has expressly authorised its disclosure
- disclosure is required by a court order
- disclosure is required by legislation or a legal obligation.

There is a serious overriding public interest as the information relates to:

- serious crime
- danger to a person’s life
- danger to other people
- danger to the community
- serious threat to others, including staff
- serious infringement of the law
- risk to the health of the person.
Information sharing when the person at risk has given consent

There are situations where information can be shared legally without obtaining the consent from an individual. An element of information sharing will need to happen as part of a referral and during the strategy discussion/meeting stage, where initial assessments of the risk factors indicate a person may potentially be at risk.

Even if there is no legal requirement to obtain consent before sharing information, it is often good practice to do so. The emphasis throughout this Protocol is on obtaining the informed consent of the adult to share information at the first point of contact.

Informed consent is a freely given, specific and informed indication of a person’s agreement to a course of action, where information is given to that person about the proposed course of action. It may be expressed verbally or in writing, except where an individual cannot write or speak when other forms of communication may be sufficient - see Chapters 3 and 4 of the Mental Capacity Act 2005 Code of Practice [DCA 2007] for guidance.

Staff need to make sure that the person at risk understands what will be recorded, what the information will be used for and with whom it might be shared. If staff do not explain this, they will not be able to give valid informed consent for information sharing to take place.

The following information should be recorded clearly within an organisation’s records when consent to share information has been freely given:

• why the information needs to be shared
• what information the person at risk has consented to be shared
• who the person at risk has consented for the information to be passed to, and any limitations to this
• that this has been explained to the person at risk and they understand the implications of giving consent to share their information
• any comments made by the person at risk in relation to the disclosure
• date consent given
• decisions to refer/not to refer.

Consent should be reviewed through existing working practices, for example, when the vulnerable adult’s personal circumstances change, or an investigation is in progress.

Information given to an individual member of staff, or an organisation’s representative, belongs to the organisation and not that member of staff/representative. Personal information shared with a worker in the course of their employment is:

• confidential to the employing organisation and can be shared within that organisation
• should only be used for the purposes for which it was intended
• can be shared with another organisation either when: permission is given by the person about whom the information is held; or there is an overriding justification, statutory power or duty to share information without the person’s consent.

Information sharing when the person at risk does not have the capacity to consent to information sharing

When someone reaches the age of 18, no one else can take decisions on their behalf. If an
adult is not competent to take their own decisions, professionals should share information that is in their ‘best interests’. The capacity to be able to give consent can be assessed by considering if the person has an impairment of the mind or brain. If so, does it prevent them from:

• understanding the information about the decision including the reasonably foreseeable consequences of deciding one way or another
• retaining that information long enough to make a decision
• weighing the fact of choosing one way or another in the balance and making the decision
• communicate their decision.

As long as the person's rights are not adversely affected and any action is in the best interests of that person, the most appropriate and safe level of consent must be obtained at the time a decision has to be made.

Information sharing when the person at risk withholds consent to share information

Individuals have the right to refuse, or withhold consent, for organisations to share information in relation to suspected abuse. Wherever possible the views and wishes of the person at risk will be respected. However, if it is thought that they are in a situation that will result in their abuse, or if they may be abusing another person, the duty of care overrides the individual’s refusal.

The need to protect the individual or the wider public outweighs their rights to confidentiality. Decisions to share information about the person at risk must be made by the organisation and not a member of staff acting on their own. This, however, should not cause unnecessary delay in the disclosure process.

The worker must explain to the person why the disclosure needs to take place and to whom the information will be passed. This should generally be done, unless it would increase the risks of harm.

The person’s decision to withhold consent to share information must be recorded, along with any further decisions about sharing information.

Decisions to share without consent must make sure that it does not interfere with that person’s human rights. That is to say, that decisions to share information should take account of the principle of proportionality as required under the Human Rights Act 1998, and the European Convention on Human Rights as well as the Data Protection Act 1998, in regard to whether and with whom (i.e. with which agencies) the information will be shared.

Information sharing with carers, parents, family, partners, etc.

When the person at risk has the capacity to make the decision, it should be up to them to decide what information is disclosed to their carers/parents/family/partners, and records should reflect this.

When the adult does not have the capacity, consideration should be given to when to share information with carers/parents of the vulnerable adult. In addition, consideration must be given to the relationship between the carers/parents and the alleged abuser.
Clear decisions should be recorded about when and what to share, and who is the most appropriate person to talk to the parent/carer, etc. More generally, an assessment should be made as to whether the sharing of certain information with a particular person or organisation is in the adult’s best interests.

**Information sharing with third parties about the (alleged) person causing harm**

Organisations and workers must ‘honestly and reasonably believe’ that the sharing of information is necessary to protect a person at risk or the wider public and must use the test of ‘pressing social need’. To pass this test the relevant organisation must consider the following issues.

- How strong is the belief in the truth of the particular allegation? The greater the conviction that the allegation is true, the more compelling the need for disclosure.
- What is the interest of the third party in receiving the information? The greater the legitimacy of the interest of the third party in having the information, the more important is the need to disclose.
- What is the degree of risk posed by the individual if disclosure is not made?
- Decisions about who needs to know and what needs to be known should be taken on a case-by-case basis. The consequences of disclosure should be balanced against the risks to the vulnerable adult. In such cases the issue of proportionality is key.
- This decision will be made at the strategy discussion stage, where it will be determined who within the investigation team will contact and speak to the alleged abuser and how this will be managed.

**Disclosures to other organisations outside of the safeguarding process**

There may be some cases where the risk posed by an individual in the community cannot be managed without the disclosure of some information to a third party outside the organisations immediately involved in the investigation. Such an example would be where an employer, voluntary group organiser or church leader has a position of responsibility/control over the individual, and other persons who may be at serious risk.

Caution should be exercised before making any such disclosure. The following factors should be taken into account.

- Does the individual present a risk of serious harm to the vulnerable adult, or to those for whom the recipient of the information has responsibility? The correct person to receive information will be the person who needs to know in order to minimise or prevent the risks.
- Is there no other practical, less intrusive means of protecting the vulnerable adult, and failure to disclose would put them in danger? Only that information which is necessary to prevent harm should be disclosed, which will rarely be all the information available.
- The disclosure is to the right person and that they understand the confidential and sensitive nature of the information they have received.
- The information will not be disclosed by the recipient third party without the express permission of the original disclosing organisation. Consider consulting the individual about the proposed disclosure; this should be done in all cases, unless to do so would not be safe and appropriate. If it is possible and appropriate to obtain the individual's consent,
then a number of potential objections to the disclosure are overcome.

- Ensure that whoever has been given the information knows what to do with it. Again, where this is a specific person, this may be less problematic but in the case of an employer, for example, advice and support may need to be given.

The risk to the individual should be considered, although it should not outweigh the potential risk to others, were disclosure not to be made. The individual retains his/her rights under the Human Rights Act 1998 and consideration must be given to whether those rights are endangered as a consequence of the disclosure.

**Safeguarding adults meetings and notes**

In order to safeguard a person at risk or other vulnerable people, it may be necessary to share confidential information at safeguarding adults meetings. It is the responsibility of the Chair of that meeting to request any relevant information and to secure the agreement of the relevant parties to sharing this information.

The Chair of the safeguarding meeting will ensure that a confidentiality statement is made at the start of the meeting and all parties understand their responsibilities in respect of confidentiality. Exchange may be verbal or written; however, data protection principles must still apply with attendees only being present where it is appropriate for them to share the information.

Attendees at safeguarding adults meetings will be asked to sign an attendance list which will confirm their individual compliance with the Protocol.

Notes taken at safeguarding meetings will be marked ‘RESTRICTED’. Only those people who have been invited to the meeting will receive copies of the minutes.

Individual requests for access to records will be considered in line with the Data Protection Act and Departmental Policy.

Any requests for access to the notes/minutes of safeguarding adult meetings must be considered on a case by case basis under the Freedom of Information Act 2000 and/or the Data Protection Act 1998, but information will only be disclosed if it is appropriate to do so. For further advice, contact should be made with the Data Protection/Information Governance/ Compliance officer or Freedom of Information officer from the relevant organisation, or contact can be made with the Information Commissioner.

If an organisation wishes to disclose confidential information, permission (i.e. consent) must be obtained in writing from the initial owner of the information. If this may not be appropriate, then prior advice should be sought from the Data Protection/ Information Governance/Compliance officer or Freedom of Information officer from the relevant organisation, or contact can be made with the Information Commissioner.