

Information Sharing Agreement

&

Practitioners Guidance

1 Introduction & Legal Context

- 1.1 This service specific information sharing agreement forms a Second Tier agreement under the overarching Derbyshire Partnership's Joint Information Sharing Protocol.
- 1.2 The general principles underpinning the sharing of personal information follow the Data Protection and Caldicott principles on obtaining and using personal information and are detailed in the overarching agreement.
- 1.3 The agreement will be reviewed annually and any partner can request changes.

2 Objectives & Defined Purpose

- 2.1 The primary objectives of this protocol are to improve the speed and efficiency of information sharing between members of Derbyshire Children and Young People's Trust to ensure children and young people receive the services they need. This is supported by the following:
 - Children Act 2004 Sections 10 (Duty to co-operate to improve the welfare of children) and 11 (Arrangements to safeguard and promote welfare)
 - Working Together to Safeguard Children 2006.
- 2.2 The protocol takes into account the effect of relevant legislation, guidance, plus common law; upon the way in which information is shared and used.

3 Data Retention, Review and Disposal

- 3.1 The flow of personal information shared under this agreement will be reviewed and retained in accordance with recipient's records management policies and disposed of confidentially and securely after this time.

4 Data Quality

- 4.1 The quality of the data making up the information to be shared must comply with national Information Governance standards.

5 Complaints and Breaches

- 5.1 All complaints or breaches relative to this agreement will be notified to the designated Data Protection Manager of the relevant organisation in accordance with their respective policy and procedures.

6 Subject Access Requests

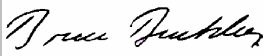
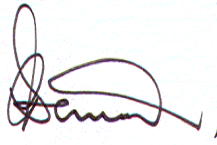
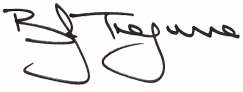
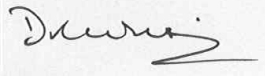
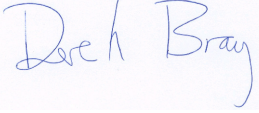





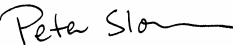
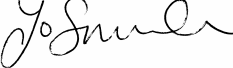
- 6.1 Each organisation party to this agreement will maintain subject access requests procedures which comply with the Data Protection Act 1998

7 Signatories

I have read, understood, and agree to abide by the terms and conditions of this protocol.

- All information received will only be used for the purposes defined and listed in the agreement.
- Information received under this agreement will not be disclosed to another agency without the agreement of the agency that provided the information.

Derbyshire Children and Young People's Trust
Information Sharing Agreement & Guidance for Practitioners

Agency	Nominated Officer	Signature	Date
Derbyshire County Council	Bruce Buckley, Strategic Director for Children and Younger Adult Services		2 nd February 2007
Derbyshire Constabulary	T/Assistant Chief Constable Carl Barker (Ops)		15 th February 2007
Derbyshire Fire and Rescue Service	Brian Tregunna, Chief Fire Officer and Chief Executive		21 st February 2007
Derbyshire Probation Service	Denise White, Chief Probation Officer		19 th February 2007
Derbyshire County PCT	Derek Bray, Chief Executive		1 st February 2007
Tameside and Glossop PCT	Tim Riley, Chief Executive		19 th February 2007
Derbyshire Mental Health Services	Mike Shewan, Chief Executive		19 th February 2007
Chesterfield Royal Hospital NHS Foundation Trust	Eric Morton, Chief Executive		31 st January 2007
Connexions Derbyshire	Hugh Hastie, Chief Executive		24 th January 2007
Derbyshire Learning and Skills Council	Peter Brammall, Chief Executive		1 st February 2007
District/Borough Councils	Peter Sloman, Chief Executive, High Peak Borough Council		5 th February 2007
Voluntary Sector	Jo Smith Chief Executive South Derbyshire CVS		19 th February 2007

A. Introduction

This document complements and supports the Derbyshire Partnership Joint Information Sharing Protocol and forms a 2nd tier information sharing agreement to it. It also seeks to give practitioners across all children's services clear practical guidance to understand when, why and how to share information legally.

B. Definitions

Throughout this document the following terms are used generically to allow ease of reading:

Parent – a parent or carer who holds parental responsibility as defined by the Children Act 1989. NB: the consent of main carers who do not hold parental responsibility should be obtained as a matter of good practice.

Child – In this document a child is anyone who has not yet reached their 18th birthday. The term "**child**" is used throughout and includes "**children and young people**".

C. Six Key Points to sharing information

Sharing information is essential to enable early intervention to help children who need additional services to achieve positive outcomes, thus reducing inequalities between disadvantaged children and others.

1. 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 including where seeking consent might lead to interference with any potential investigation.
2. You must 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 must be the overriding consideration.

3. 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.

The key factor in deciding whether or not to disclose confidential information is proportionality and pressing need.

4. 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.
5. 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.
6. You should always record the reasons for your decision – whether it is to share information or not.

D. Information Sharing Guidance to Practitioners

In all situations the overriding consideration as to whether to share information should be the safety and welfare of the child.

“Ensuring that children and young people are kept safe and received the support they need when they need it is vital. Where information sharing is necessary to achieve this objective it is important that practitioners have a clear understanding of when information can be shared. It is also important for them to understand the circumstances when sharing is inappropriate. The Data Protection Act is not a barrier to sharing information, but it is in place to ensure that personal information is shared appropriately”

Richard Thomas Information Commissioner (2006)

Good practice indicates that obtaining parental, or where appropriate the child's consent, should be a first consideration. However, a lack of consent should never compromise the safety or welfare of a child. Consideration should be given to seeking the views of the parent / child as to why consent may be being withheld.

- **Sharing confidential information without consent in the public interest is normally justified in the following circumstances:**

- Where there is evidence that the child *is* suffering or is at risk of suffering significant harm
- Where there is reasonable cause to believe that a child *may* be suffering or at risk of suffering significant harm
- To prevent significant harm arising to children and young people or serious harm to adults, including through the prevention, detection and prosecution of serious crime

- **Sharing information as part of preventative services;**
 - Obtaining consent should be the first consideration
 - Where consent is not obtained the key factor in deciding whether to share confidential information without consent is proportionality; i.e. whether in your judgement, the proposed sharing is a proportionate response putting the child's safety and welfare as the overriding consideration.
 - In making the decision you must:
 - Weigh up what might happen if the information is shared against what might happen if it is not.
 - Make a decision based on reasonable judgement
 - Record your decision and the reasons for it.

- **Sharing information in the case of sexual activity of under 13 year olds**
 - Under the Sexual Offences Act 2003, penetrative sexual activity involving a child under 13 is statutory rape and all practitioners have a duty to share this information with the police and children's social care via the safeguarding procedures.
 - In exceptional cases where a practitioner believes that such sharing of information would be detrimental to the child's best interests, a discussion must take place with the designated safeguarding lead for the agency concerned and a record made of the reasons for this decision.
 - Designated safeguarding leads will report the occasions where decisions have been made not to share information to the Derbyshire Safeguarding Children Board.

E. Whose consent should be sought?

Children and Young People

The following criteria should be used to assess whether a particular child has sufficient understanding to give or refuse consent, however, children aged 12 or over may generally be expected to have sufficient understanding. (This is what is known as Fraser / Gillick competence).

- Can the child understand the question being asked of them?

- Does the child have a reasonable understanding of:
- What information might be shared
- The main reason for sharing the information
- The implications of sharing or not sharing the information

- Can the child or young person:
 - Appreciate and consider alternative courses of action
 - Weigh up one aspect of the situation against another
 - Express a clear personal view on the matter, as distinct from repeating what someone else thinks they should do
 - Be reasonably consistent in their view

Where you have judged a child is not competent to consent a person with parental responsibility should be asked to consent on their behalf. Where there is conflict you should always aim to act in the best interests of the child even where this means overriding refusal to consent and consideration should take place as to with whom and where the information is being disclosed.

The consent of both young people and their parents to share information should be sought. Where there is a disagreement between the parent and young person then the practitioner will make a judgement about whether to share information using the principles set out in section D.

Parents

Where one parent consents to information about a child being shared, but another objects, then the principles of safety, welfare and proportionality set out in section D will apply.

F. Recording Decisions

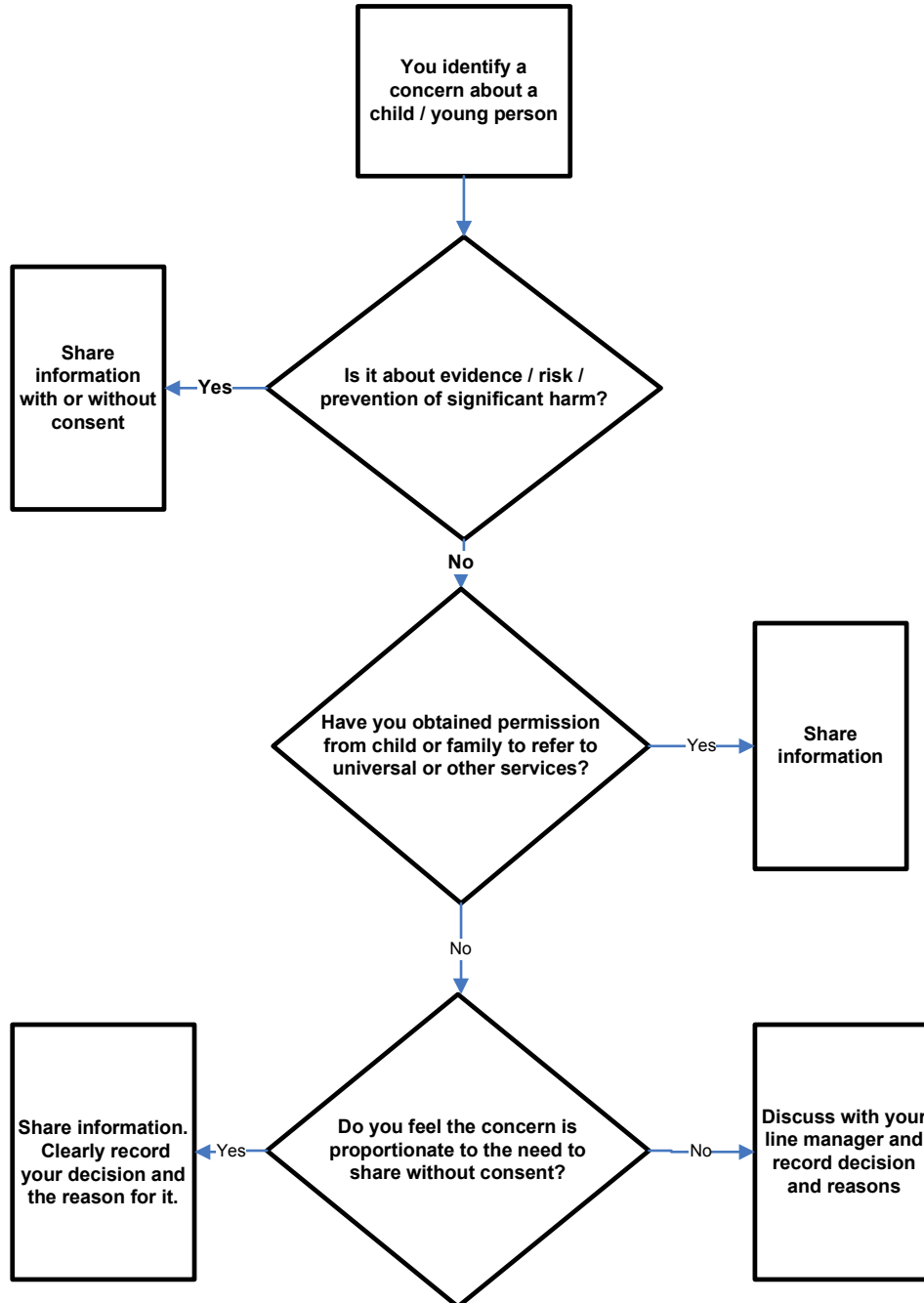
You should record your decision and the reasons for it whether or not you decide to share information. If the decision is to share, you should record what information was shared and with whom. You should also record any consultations and views sought which were undertaken as part of the process.

G. Multi-agency Panels

Where professionals from more than one agency meet to consider a series of children, the following principles shall apply:

- Parents and children should ordinarily be aware of the Panel meeting and have consented to their information being shared.
- Where consent to share information is not obtained, this may be overridden in line with the guidance set out in section D.
- Any decision to override consent should be recorded on the minutes of the meeting.

Information Sharing Consent Guidance Flow Chart



Further information and advice is available from the Disclosure Officer or the Information Governance Manager