

Bournemouth, Dorset and Poole

Children and Young People Partnerships

Multi-Agency Data and Information Sharing Protocol

Revised 28 August 2007

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Parties to the Protocol - List of signatory agencies

Updated to show reorganisations of Local Authorities and Primary Care Trusts

1. Borough of Poole Children and Young People's Services
2. Borough of Poole Adult Social Care & Wellbeing and Adult Social Services – Commissioning
3. Bournemouth and Poole Primary Care Trust
4. Poole Hospital NHS Trust
5. Royal Bournemouth and Christchurch NHS Hospitals Trust
6. Bournemouth and Poole Youth Offending Team
7. Dorset Youth Offending Team
8. Connexions across Bournemouth, Dorset and Poole
9. South West Strategic Health Authority
10. Dorset Police
11. Bournemouth Children's Services
12. Dorset Healthcare Trust
13. Dorset County Council Children's Services
14. Dorset Primary Care Trust
15. West Dorset General Hospitals Trusts
16. West Dorset District Council Community Economic Partnership
17. The Children's Society
18. Christchurch Borough Council Community and Planning
19. Barnardos
20. Dorset Schools
21. Adam Practice – incorporating the following General Practitioners' surgeries: Hamworthy, Poole, Upton and Heath Cottage
22. Equilibrium
23. NCH South West

The Nominated Representatives will be responsible for encouraging and enlisting other relevant and appropriate organisations to sign up to this Protocol. They will then inform the Lead Nominated Representative of any new signatory, who will in turn notify all other nominated representatives via email and add the details to the list of signatories within the Protocol.

There will be one master document accessible via the Web.

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1 General Purpose of the Protocol

- 1.1 The purpose of this protocol is about supporting information sharing between agencies, for the purposes of identifying, safeguarding and promoting the welfare of vulnerable children at-risk of social exclusion. It is unlikely that one agency on its own can meet all the often complex needs of vulnerable children. Most families rightly expect inter-agency services to be well co-ordinated. In many cases it is only when information from a range of sources is put together that a child can be seen to be in need of extra support.
- 1.2 Vulnerable children and young people will be identified promptly, referred to the appropriate services and tracked to ensure their progress is monitored and support is maintained through to an agreed conclusion.
- 1.3 The protocol describes the legal framework that will enable agencies to share information. It provides guidance on how the exchange of sensitive, personal and depersonalised information can be used to help the Partnerships combat the effects of social exclusion. It emphasises the importance of seeking consent to information sharing in all cases. Annexes A-E are intended to be working tools for professionals to use with regard to sharing information.
- 1.4 Other information sharing protocols exist, councils are developing corporate protocols for all services. Individual service agreements will contain reference to how information is shared. This document provides an over-arching framework for Children's Services and should be used as a reference document

2 Legal Basis for Sharing Information

- 2.1 Practitioners are often concerned about the possible legal or ethical restrictions on information sharing and about the impact of disclosure on their relationship with their client. There are some clear circumstances in which professionals have a duty to share information in order to protect a child or young person from risk of significant harm. Additionally, it is increasingly recognised in practice that a failure to share information, even at the level of a “niggling concern”¹ may have serious consequences for the welfare of a child, if not considered together with the concerns of others.
- 2.2 In order to facilitate the exchange of information between and across the above agencies, the parties agree:
 - 2.2.1 Each agency has taken steps to comply with the Data Protection Act, the Human Rights Act and the Caldicott Principles.
 - 2.2.2 Training will be provided to staff in the use of this Protocol.
 - 2.2.3 Agencies will participate in the monitoring and improvement of the use of this Protocol.

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¹ DoH What to do if you're worried that a child is being abused

- 2.2.4 Agencies will record improvements in information sharing between each other, for example where information was not readily available before but where professionals now feel able to share. These will be monitored by the lead officers during the monitoring process, see paragraph 6.

3 Definitions

- 3.1 A number of the terms used in this document are defined in the Data Protection Act.

4 Conditions for Sharing Information

- 4.1 All parties agree that they may share information with one another providing the following conditions are met:

4.1.1 There is a legal basis for sharing information.

4.1.2 That it is necessary to share information.

4.1.3 That it is proportionate.

5 Nominated Representatives

- 5.1 Each agency shall have a Nominated Representative for the purpose of this Protocol to perform operational and management functions in relation to data processing. This could be your Data Protection Officer.
- 5.2 There shall be a Lead Nominated Representative as agreed from time to time by these agencies.
- 5.3 The Nominated Representatives will ensure there are designated roles in their organisation that make and receive data sharing requests.

6 Monitoring Process

- 6.1 The Lead Nominated Representative shall be responsible for organising a meeting at least every six months, or as necessary, to discuss the working of the Protocol. Any disputes or disagreements between parties shall be resolved by discussion between the Nominated Representatives if at all possible or between the Heads of each Agency.
- 6.2 The Nominated Representatives shall ensure that any problems encountered by staff are recorded and a survey is carried out on a regular basis, but at least once-a-year to identify any such problems. The findings will be addressed during the monitoring process to see if the Protocol can be improved or whether improved strategies need to be put into place via the Children and Young People's Strategic Partnership.

7 Agents and Sub-contractors

- 7.1 Each agency shall ensure its agents and sub-contractors comply with the provisions of this Protocol.

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- 7.2 Each agency shall be responsible, towards the other parties of this Protocol, for the acts and omissions of their agents or sub-contractors.

8 Security of Information

- 8.1 Each agency will state by which means it agrees to transmit or receive information and by so doing certifies that those methods are compliant with the Data Protection Act. This information is attached as Appendix F.
- 8.2 Each recipient must ensure the secure storage of data received and when it has served its purpose it must be destroyed as confidential waste.

9 Retention

- 9.1 Signatories to the protocol will ensure that all data obtained from any other agency is only retained for as long as it is required to achieve the purposes for which it was initially provided. It will be the responsibility of the recipient to ensure that all data is relevant, accurate and up to date. All data received will be reviewed in accordance with the records retention policies of the individual agency.

10 Accuracy of Information

- 10.1 When an agency finds information is inaccurate that agency shall advise the corrections to all other parties that it knows has received or holds that information.
- 10.2 Each agency must ensure that the correction is made.

11 Complaints

- 11.1 In the event of a complaint being received by any agency included in this Protocol about the use or disclosure of personal information, all relevant agencies must be advised as soon as practicably possible and in any event within seven working days.
- 11.2 Each agency will deal with the complaint in accordance with their own procedures, the results of which will be advised to all other agencies and any necessary action to amend the Protocol will be taken.

12 Secondary Disclosure

- 12.1 Each agency will always retain ownership of the personal information it discloses to another partner. The identity of the originator must be recorded against the relevant information.
- 12.2 The recipient of the information must obtain the consent of the original owner before making a further disclosure to a secondary person or body, except where the delay caused by doing this may hamper urgent investigation or delay the safeguarding of a child or young person.

- 12.3 Permission must also be obtained before using the information for a different purpose from that which it was first obtained, even if permission has been received from the data subject.

13 Data Subject Access Request (Access to Personal Files/Records)

- 13.1 If an agency receives a request for the data subject to have access to their information and this information is identified as belonging to another agency, the receiving agency must contact the information owner to determine whether the latter wishes to claim an exemption under the provisions of the Data Protection Act.

- 13.2 Where a data controller cannot comply with the request without disclosing information relating to another individual who can be identified from that information he or she is not obliged to comply with the request unless:

13.2.1 the other individual has consented to the disclosure of the information to the person making the request, or

13.2.2 it is reasonable in all the circumstances to comply with the request without the consent of the individual. In determining whether it is reasonable regard shall be had to all the circumstances but in particular to:

- any duty of confidentiality owed by or to the other individual;
- any steps taken by the data controller with a view to seeking the consent of the other individual;
- whether the other individual is capable of giving consent; and
- any express refusal of consent by the other individual.

14 Consent

- 14.1 Consent should always be sought where appropriate. Many of the data protection issues surrounding disclosure can be avoided if the consent of the individual (see appendix J – Fraser Competency) or the parent/carer (whichever is appropriate) has been sought and obtained.

- 14.2 Where consent is withheld the guidance emphasises how decisions may be made about sharing information through specific legal powers and application of principles such as proportionality (see appendix A paragraph 3 and appendix E).

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15 - Original Signatories at first version of this Protocol, February 2004

NB - this was prior to Children's Services and NHS Reorganisation

Signature Fred Davies Designation Policy Director (Social Services)	Date 2 February and 4 March 2004 Agency Borough of Poole
Signature John Nash Designation Policy Director (Education)	Date 2 February and 4 March 2004 Agency Borough of Poole
Signature Pauline Batstone Designation Service Manager	Date 2 February and 4 March 2004 Agency B'mth & Poole Youth Offending Team
Signature Dr J A Dawson Designation Director of Public Health and Health Improvement	Date 5 February 2004 Agency Poole Primary Care Trust
Signature Martin Smitts Designation Director of Nursing and Caldicott Guardian	Date 9 February 2004 Agency Poole Hospital NHS Trust
Signature Pam Donnellam Designation Director of Social Services	Date 19 February 2004 Agency Bournemouth Borough Council
Signature Pratap Deshpande Designation Director of Education	Date 19 February 2004 Agency Bournemouth Borough Council
Signature Andrew Williams Designation Chief Executive	Date 5 March 2004 Agency Connexions across Bournemouth, Dorset and Poole
Signature Paul Lumsden Designation Nurse Executive and Caldicott Guardian	Date 26 March 2004 Agency Dorset Healthcare Trust
Signature Margaret Wheatcroft Designation Nurse Executive and Caldicott Guardian	Date 7 April 2004 Agency Bournemouth and Christchurch Hospitals NHS Trust
Signature Debbie Fleming Designation Chief Executive	Date 23 April 2004 Agency Bournemouth Teaching Primary Care Trust
Signature Adrian Whiting Designation Assistant Chief Constable	Date 7 April 2004 Agency Dorset Police
Signature Steve Pitt Designation Director of Social Care & Health	Date March 2004 Agency Dorset County Council

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Signature Jackie Last
Designation Head of Children's Services

Date March 2004
Agency Dorset County Council

Signature Peter Mankin
Designation Chief Executive

Date March 2004
Agency South & West Dorset Primary Care Trust

Signature Nick Cox
Designation Chief Executive

Date March 2004
Agency West Dorset General Hospitals Trusts

Signature Sarah Ward
Designation Manager of Community Economic Partnership

Date March 2004
Agency West Dorset District Council

Signature Jean Trehitt
Designation Social Work Manager

Date March 2004
Agency The Children's Society

Signature Judith Plumley
Designation Community & Planning Policy Manager

Date March 2004
Agency Christchurch Borough Council

Signature Jan Owens
Designation Chairperson

Date March 2004
Agency Dorset Early Years Development & Childcare Partnership

Signature Vivian Upton
Designation Assistant Director, Children's Services

Date March 2004
Agency Barnardos

Signature Paul Green
Designation Headteacher

Date March 2004
Agency Royal Manor Arts College

Signature Ian Mackenzie
Designation Acting Director of Public Health

Date 20 April 2004
Agency Dorset and Somerset Strategic Health authority

Signature Dr C Playfair
Designation Caldicott Guardian

Date 22 July 2005
Agency Adam Practice, incorporating General Practitioners' surgeries: Hamworthy, Poole, Upton and Heath Cottage

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Appendix A - Information Sharing Checklist

This applies to any disclosure of personal information relating to a living individual, that is:

“Information recorded in a form in which it can be processed by equipment operating automatically in response to instructions given for that purpose” in other words, information held on a computer, or “written or verbal information however recorded” as part of a relevant filing system, as defined by the Data Protection Act 1998.

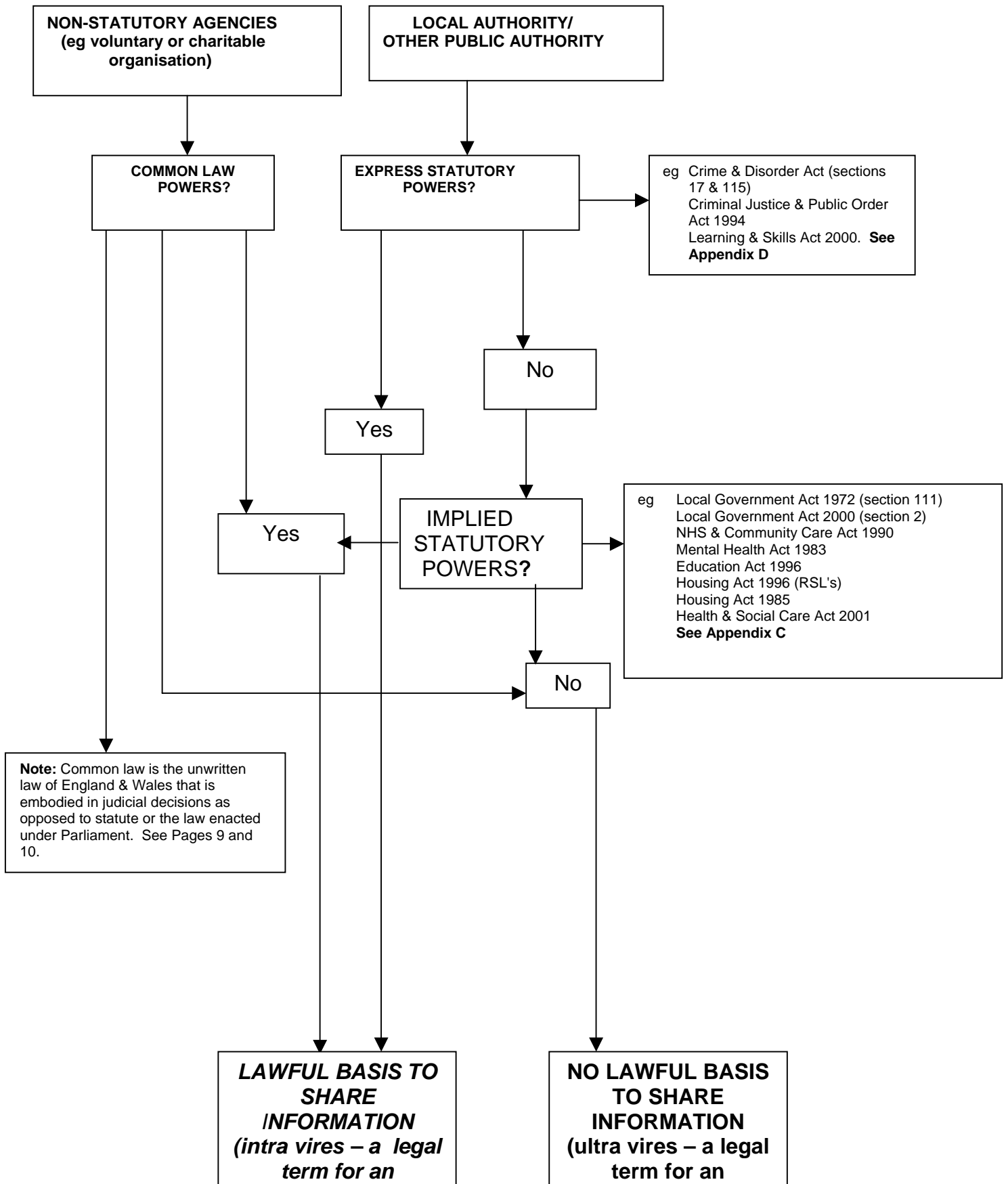
There are no restrictions if the information cannot identify a person or concerns someone who is deceased.

- 1. Why do I/they want the information? Is sharing this information in the best interests of the child/young person?**
- 2. Is there a sufficient need to know? (If the information is shared will this make a difference to the service offered and to the outcomes for the child/young person? Is it necessary for me/them to do my/their job or to do a statutory duty)**
- 3. Is the reason for the request “proportionate” for the purpose eg:**
 - **Are the reason or reasons for sharing information justifiable under Article 8 of the Human Rights Act (see pages 9), is the reason clear to you?**
 - **Can less information be shared and still achieve the best interest of the child/young person (think – is it a sledgehammer to crack a nut)?**
 - **Is there another equally effective way of achieving the same aim? (Can I share less information and still achieve the best interest of the child/young person?)**
 - **What is the impact of disclosure likely to be on the individual?**
 - **If the information requested is sensitive information (race or ethnicity, political or religious beliefs, health, sexual life, criminal offences, trade union membership), is it necessary to share this in order to meet the reason for sharing?**
- 4. Is the information up to date and accurate? Also do I/they distinguish between fact and opinion or judgement?**
- 5. Will the request involve secondary disclosure and if so do I need to check with the person who told me this information or wrote this report before I share it?**
- 6. Have I/they got consent? If so is it recorded on a file or is there a consent form, are there any restrictions?**
- 7. On the assumption that the consent cannot realistically be obtained or sought is there justification for sharing without consent, eg to protect the interests of the child or necessary to carry out a duty conferred on any government department or agency working under statute (not just yours). See list of authorising statutes in appendices C and D.**
- 8. Have I recorded that I have shared this information?**
- 9. Am I sharing this information in a secure way?**

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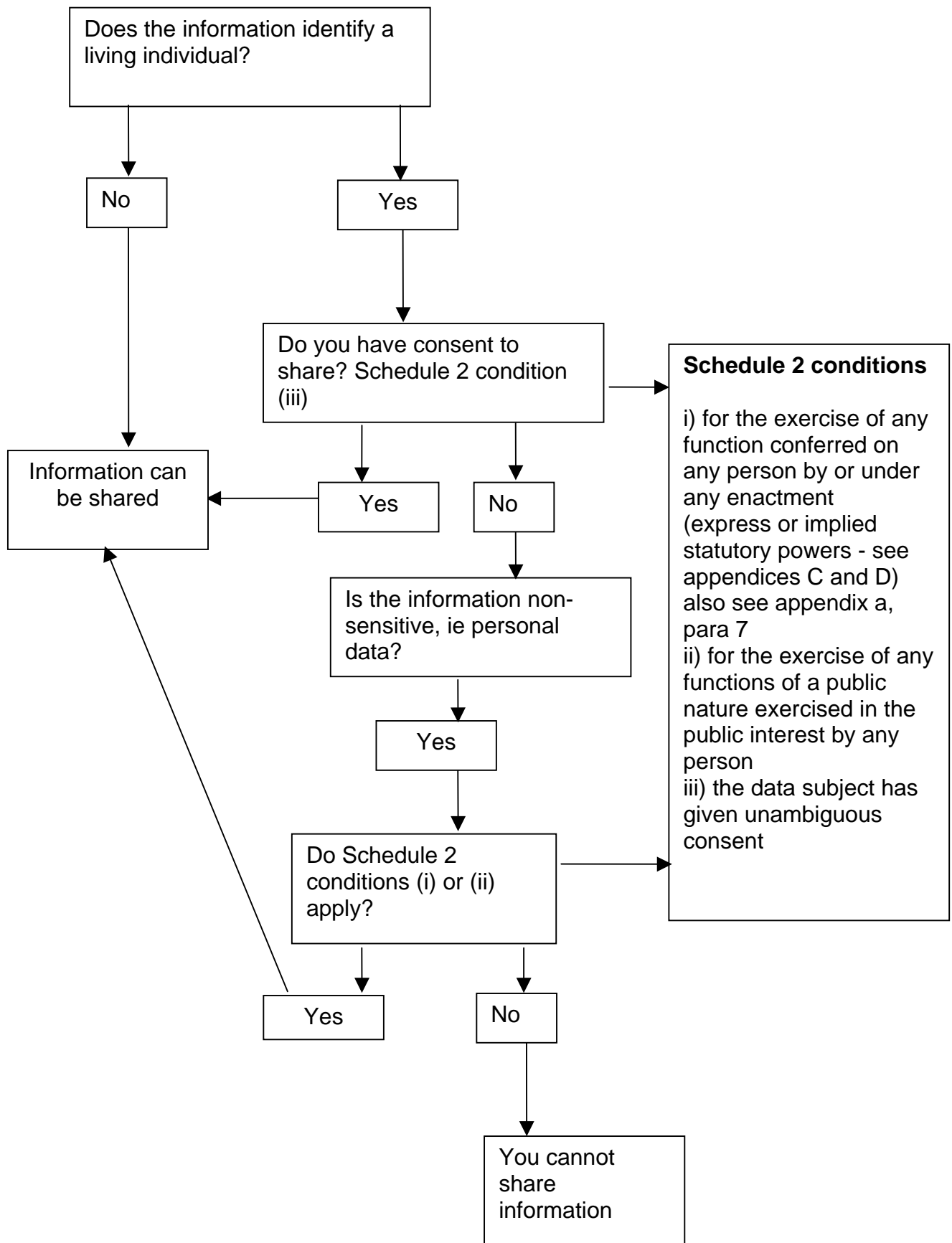
Appendix B – Information Sharing

Is It Lawful? (Flowchart)



Is it compliant with the Data Protection Act – Personal Information? (Flowchart)

The DPA only applies to living individuals. If a living individual cannot be identified data protection legislation does not apply.

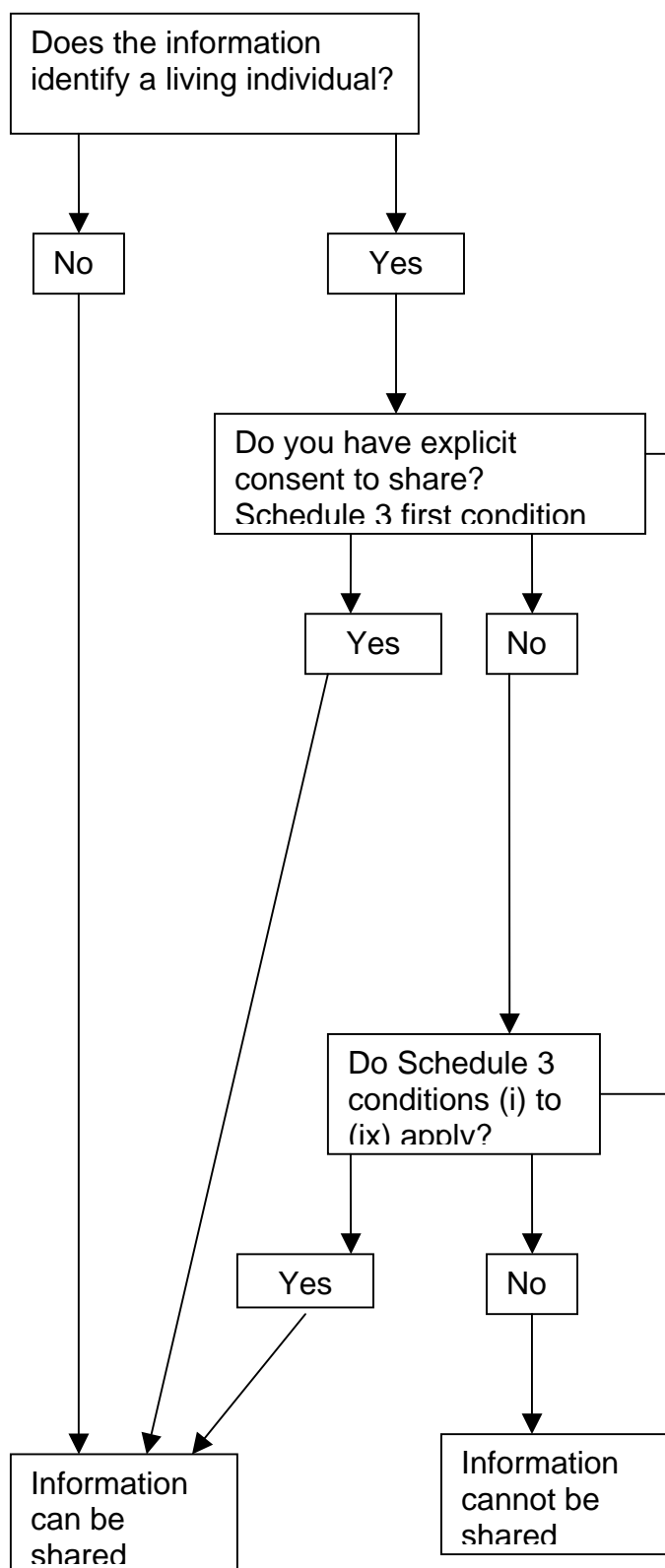


Is it compliant with the Data Protection Act – Sensitive Information? (Flowchart)

Sensitive data is defined as:

- The racial or ethnic origin of the data subject
- Their political opinions
- Their religious beliefs or beliefs of a similar nature

- Their physical or mental health or condition
- Their sexual life
- Any proceedings for any offence committed or alleged to have been committed by them, the disposal of such proceedings or the sentence of any court in such proceedings



Schedule 3 conditions

The data subject has given explicit consent, ie informed and unambiguous (this is usually interpreted as being required in writing)

Or the processing is necessary:

- for the exercise of any function conferred on any person by or under any enactment (express or implied statutory powers - see above. To use implied statutory powers stronger justification is required to demonstrate that it is necessary to share sensitive data without explicit consent)
- for the administration of justice, ie judicial processes, court matters, policing requirements
- in the substantial public interest to prevent or detect an unlawful act and seeking explicit consent from the data subject would prejudice the purpose
- to protect the vital interests of the data subject or another person, where consent cannot be given or has been unreasonably withheld by on behalf of the data subject, or the data controller cannot reasonably be expected to obtain the consent of the data subject
- to meet obligations under employment law
- to monitor equality and or opportunity
- for medical purposes and undertaken by medical/health practitioners under an obligation of confidence
- in connection with legal proceedings or the seeking of legal advice
- because the information has already been made public as a result of steps deliberately taken by the data subject

Note this is not a full list of schedule 3 conditions but is a list most likely to apply to data sharing by local authorities and other public authorities

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Is it compliant with the Human Rights Act and the Common Law duty of Confidentiality?² (Explanation)

Article 8 of the Human Rights Act

“8.1 Everyone has the right to respect for his private and family life, his home and his correspondence.

8.2 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 the protection of the rights and freedoms of others (legitimate aims)”

The Article 8 right is a **qualified** right and permits public authority intervention when this is:

- In accordance with the law
- In the pursuit of a legitimate aim
- Necessary in a democratic society

In other words a situation may arise when professionals can legitimately exchange information without consent, eg:

- to safeguard a child/young person
- to protect his or her health or morals
- to protect the rights and freedoms of others
- to prevent crime and disorder or
- to carry out a statutory function³

The exercise of powers must be proportionate. Proportionality cannot be expressly quantified, but within a data sharing arrangements involving sensitive data, answering the questions in appendix A will help to demonstrate a proportionate approach.

Common Law Duty of Confidentiality

Any confidential information falls within this duty and does not have to be particularly sensitive. For personal information to fall under the Common Law Duty of Confidentiality it:

- is not in the public domain or readily available from another source
- has a degree of sensitivity
- is communicated for a limited purpose and in circumstances where the individual is likely to assume an obligation of confidence, eg, health practitioner/patient, solicitor/client, etc.

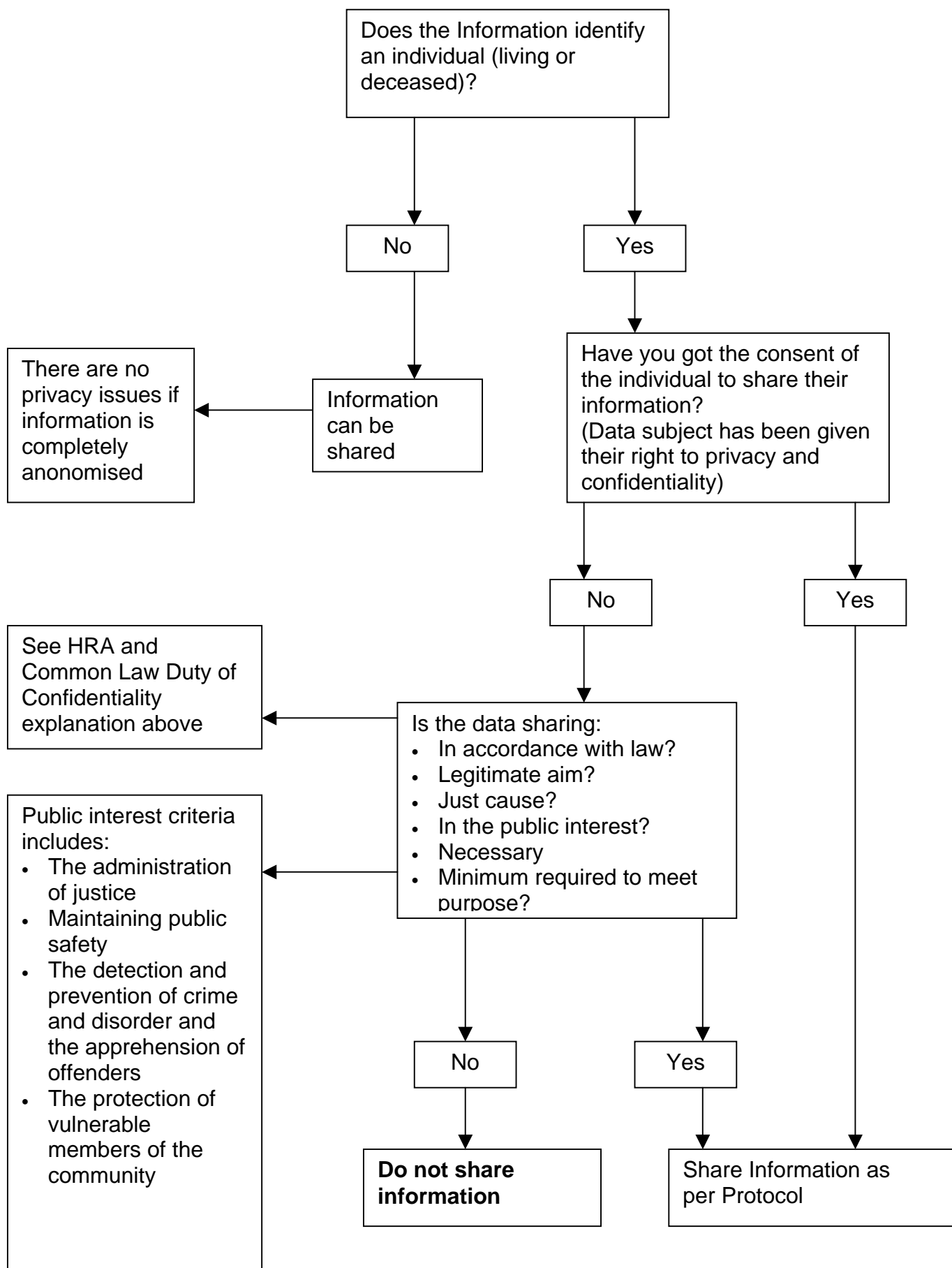
Once again confidentiality is a **qualified** right. It has long been established that acting in the public interest or with just cause are defences against an action for breach of confidence. The law permits the disclosure of confidential information, where there is an overriding public interest or justification for doing so. Examples of this might be child protection or the protection of vulnerable adults or the prevention and detection of crime or public safety.

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² Note – There is a degree of overlap between the Data Protection Act, Human Rights Act and the Common Law of Confidentiality. If you have established that the activity is lawful; and that the appropriate Data Protection Principles and Schedules 2 and 3 conditions have been met, it is likely that you will also meet the Human Rights Act (article 8) and Common Law Duty of Confidentiality requirements, and vice versa.

³ Comment - to use implied statutory powers, stronger justification is required to demonstrate that it is necessary to share sensitive data without explicit consent.

Is it compliant with the Human Rights Act and the Common Law Duty of Confidentiality? (Flowchart)



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Appendix C – Express Statutory Powers to Share Information

Child Protection

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Express Statutory Power
Any agency or public body	There is reasonable cause to suspect that a child is suffering or is likely to suffer significant harm	Children's Services (Social Care)	Yes – Section 47 Children Act 1989
Children's Services (Social Care)	To undertake enquiries in order to decide if action should be taken to safeguard or promote the child's welfare	Any agency who may have information	Yes – Section 47 (1) Children Act 1989
Children's Services (Social Care)	As a result of above enquiries it appears there are matters connected with the child's education which should be investigated	Children's Services (Education)	Yes – Section 47 (5) Children Act 1989
Children's Services (Education)	Children's Services (Social Care) request for information re above	Children's Services (Social Care)	Yes – Section 47 (9) Children Act 1989
Local Housing Authority, Health Authority, Special Health Authority, Primary Care Trust, National Health Service Trust	Children's Services (Social Care) request for information re above	Children's Services (Social Care)	Yes – Section 47 (9) of Children Act 1989
Children's Services (Social Care)	Child ordinarily living in another LA	Children's Services (Social Care) of another LA	Yes – Section 47 (12) of Children Act 1989

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Child Protection - People Unsuitable to Work with Children

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Express Statutory Power
Any organisation employing a person in a child care position	An individual has been found guilty of misconduct (whether or not in the course of his employment) which harmed a child or placed a child at-risk of harm	Department for Health	Yes - Protection of Children Act 1999, Section 2A
Any organisation dealing with child care	The organisation wishes to offer a job to a person in a child care capacity	Department for Health	Yes – Protection of Children Act 1999, Section 3
Any organisation employing a person in a care of vulnerable people position	A person is found to be unsuitable to work with vulnerable adults	Department for Health	Yes – Care Standards Act 2000, Section* 82
Local Authority School Agencies or Contractors of teachers	Because a teacher has ceased to be employed because of misconduct or health	General Teaching Council	Yes – Teaching and Higher Education Act 1998, Sections 15 and 15 A

NB This Protocol will be updated in due course in the light of forthcoming legislation: [Safeguarding Vulnerable Groups Act 2006](#) – which comes into operation in Autumn 2008

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Child with a Disability

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Express Statutory Power
Children's Services (Social Care)	Because it is believed that a child with a disability is likely to suffer harm but lives or is moving to another LA	Other LA where child lives or is moving to. When informing the other LA the LA must specify the "harm that they believe he is likely to suffer and (if they can) where the child lives or proposes to live"	Yes, Section 17(2) Children Act 1989. Para 4(3) provides that when informing that other LA they shall specify a) the harm that they believe he is likely to suffer and b) (if they can) where the child lives or proposes to live. Harm means ill treatment or the impairment of health or development. Development means physical, intellectual, emotional, social or behavioural development. Health means physical or mental health. Ill-treatment includes sexual abuse and forms of ill treatment that are not physical
Children's Services (Social Care)/Local Authority	To compile and maintain a register of disabled children	Health	Children Act 1989 Section 17 (2)
Children's Services (Social Care) (or any other LA service)	There is a need for health or housing provision and Health or Housing can assist with the assessment	Primary Care Trust, Health Authority or Local Housing Authority	Section 47 National Health Service and Community Care Act 1990

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Child with a Disability continued

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Express Statutory Power
Children's Services (Social Care)/Local Authority	To compile and maintain a register of blind; partially sighted; deaf with speech; deaf without speech; hard of hearing; and general classes (those whose primary handicap is neither visual nor auditory)	Health Services	National Assistance Act 1948, Section 29

Child with Special Educational Needs

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Express Statutory Power
Children's Services (Education)/Health	To assess a child's SEN	<p>Health, Children's Services (Education), Children's Services (Social Care)</p> <p>Also they should seek advice from: Child's parent Head teacher, the teacher who taught the child, the person who the authority are satisfied have experience of teaching children with SEN Medical advice from the Health Authority (from a fully registered medical practitioner) Psychological advice (from Educational Psychologist) Advice from Children's Services (Social Care) Any other advice which Children's Services (education) considers appropriate</p>	<p>Section 322 Education Act 1996</p> <p>Education (Special Educational Needs) (England) (Consolidation) Regulations 2001 (SI 3455/2001), Regulation 7(1)</p>
Children's Services (Education)	Considering making an assessment of SEN. Children's Services (education) under obligation to send copies of the notice stating they are considering an assessment of SEN	<p>Children's Services (Social Care) Health Authority Head Teacher of School pupil registered with (if any) If the child receives education from an early education provider, to the head of SEN in relation to that provider</p>	<p>Education (Special Education Needs) (England) (Consolidation) Regulations 2001 (SI 3455/2001), Regulation 6</p>

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Child with Special Educational Needs – continued

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Express Statutory Power
Children's Services (Education)	Requirement to serve list of all children with statements who will be in Year 10 of compulsory education	To Connexions	Education (Special Education Needs) (England) (Consolidation) Regulations 2001 (SI 3455/2001), Regulation 18
Headteacher	Review of SEN requirement on HT to invite	Rep from Children's Services (Education) Parent Staff who teach the child Any other person the HT considers appropriate Any other person the Children's Services (Education) considers appropriate and who is specified in the notice Where a child is in year 10 of compulsory school age a rep of Connexions	Education (Special Education Needs) (England) (Consolidation) Regulations 2001 (SI 3455/2001), Regulation 18

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Children Statutory School Age

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Express Statutory Power
Children's Services (Education) request to School	To know details of children registered at school	School to Children's Services (Education)	Section 434 Education Act 1996, Ss (4)
School	Change of School	New school	Section 563 Education Act 1996
School	Change of Educational Establishment (school higher education)	New school/higher educational establishment (responsible person – eg Headteacher)	Education (Pupil Information) (England) Regulations 2000 SI 2000/297, Regulation 5 plus Regulation 10
Headteacher	Requirement to give certain information about excluded pupils	Children's Services (Education)	The Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (England) Regulations 2002 (SI 3179/2002) and Education (Pupil Exclusions and Appeals) (maintained schools) (England) Regulations 2002 (SI 3178/2002), Section 52
Headteacher	Because a Headteacher must disclose a pupil's educational record to the parent	Parent	Yes – Education (Pupil Information) (England) Regulations 2000 SI 2000/297, Regulation 5

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Children Missing Education

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Implied Statutory Power
Education Welfare Service of the Local Authority with Responsibility for Children's Services	To ascertain the whereabouts of any child who goes missing from education and whose new location/address is not known, to a) ensure the child's safety b) ensure the child continues to receive the education to which they are entitled c) prosecute offences relating to non-school attendance	Local Authority Housing and Community Services Local Authority Revenue and Benefits Service (Council Tax and Housing Benefits) (Please note Council Tax information should not be used if parents have expressed an intention to educate at home – this does not apply to the Housing Benefit information) NHS Tracking Service	Section 63 of the Children Act 2004 Section 47 of the Children Act 1989 Section 14 (1) of the 1996 Education Act (duty on LEA) Section 437 (1) of the 1996 Education Act (duty on LEA) Section 10 (1) and (2) of the Children Act 2004 (duty on local authority) Section 2 (4) of the Local Government Act 2000 (power to local authority) Section 22 of the National Health Services Act 1977 (duty of Health Service and Local Authority)
Education Welfare Service of the Local Authority with Responsibility for Children's Services	To ascertain the whereabouts of any child who goes missing from education without any details of where they are moving to, to ensure the child's safety	Inland Revenue (Child Benefit Section)	Section 63 of the Children Act 2004 amends Schedule 5 of the Tax Credit Act 2002, meaning that the Inland Revenue now has lawful authority to provide local authorities with the limited amount of information relating to children, ie names and address(es). Section 47 of the Children Act 1989 requires local authorities to make enquiries where they suspect a child is suffering or is likely to suffer significant harm. Enquiries should only be made to the Inland Revenue after all other avenues for tracing missing children have been explored.

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Children Missing Education continued

<p>Education Welfare Service of the Local Authority with Responsibility for Children's Services</p>	<p>Requirement to list of all children missing education to ensure our duty to safeguard and promote the welfare of these children of these children is carried out.</p>	<p>Any statutory, voluntary or private sector provider who may have relevant information – (Please note Council Tax information should not be used if parents have expressed an intention to educate at home – this does not apply to the Housing Benefit information)</p>	<p>Sec 175, Education Act 2002 (1) and (4) Sec 19(4A) Education Act 1996 Sec 10 (2) c Children Act 2004</p> <p>and Identifying and maintaining contact with Children Missing or at risk of going missing, from Education. July 2004</p>
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School Children/Students Aged 13-19 Inclusive

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Express Statutory Power
<p>Connexions; Community, foundation and voluntary schools; Community or foundation special schools; CTCs, city colleges for technology or the arts; Academics; Pupil Referral Units; Further Education Institutes; Those in receipt of funding from the Learning Skills Council</p>	<p>To help a young person take part in further education or training. Information covered: Name and address of a young person Name and address of parent of a young person Information in the institution's possession about a young person</p>	<p>From any or all of the following: Local Authority Health Authority Chief Officer of Police Police Authority Probation Committee Youth Offending Team Primary Care Trust</p>	<p>Section 117(1) Learning and Skills Act 2000 Note – a parent (if the pupil has not attained 16) or a pupil (if 16 or over) can instruct the relevant institution not to provide the information described in s117 (1)(b) (s117 (2)). Otherwise this information can be shared without consent.</p>
<p>Any person or body (see above) involved in the provision of further education or training</p>	<p>To help a young person take part in further education or training.</p>	<p>Local Authority Strategic Health Authority Learning and Skills Council A Chief Officer of Police Local Probation Board Youth Offending Team Primary Care Trust</p>	<p>Section 120 Learning and Skills Act 2000</p>

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Children and Young People Involved or likely to be involved in Crime and Disorder

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Express Statutory Power
Local Authority or Children's Services (Education)	To provide the courts with information relating to home surroundings, school news, health and character of the person (unless they are of the opinion it is not necessary to do so)	The Courts or the Youth Offending Team or Probation acting on behalf of the Courts	Children and Young Persons Act 1969, Section 9
Any authority or agency	Person has committed a crime	Police	Crime and Disorder Act 1998, Section 29

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A child or young person who is in the care of the Local Authority Under a Care Order

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Express Statutory Power
Children's Services (Social Care)	Because a Looked-After Child is being accommodated at an establishment at which education is provided	Children's Services (Education) for the area in which the establishment is located	Children Act 1989, Section 28
Any Health Authority or Children's Services (Education)	<p>Because a child is being accommodated by them and they are obliged to inform Children's Services (Social Care) of this fact</p> <p>Children's Services (Social Care) has to ensure the child's welfare is being adequately safeguarded and promoted</p>	Children's Services (Social Care) in area where the child is being accommodated	Children Act 1989, Section 85

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A child or young person who is leaving or has left care

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Express Statutory Power
Children's Services (Social Care)	<p>Because a young person is entitled to leaving care services and Children's Services (Social Care) have a duty to keep in contact with such a young person and to provide advice and assistance</p> <p>A young person is eligible if he has been in care for a period of 13 weeks or more since he was 14 (not necessarily continuous) and has left care after 16 but is still under 21 years of age. <i>It does not include children who have received respite care for this period of time or if the young person has returned home</i></p>	<p>Any agency who may have any information about the young person which enables the LA to undertake its statutory duty.</p> <p>Most likely to be Health Services but could be any agency (GP registration)</p>	Children Act 1989, Section 23 and Section 24, as amended by Children (Leaving Care) Act 2000, sections 24, 24A to 24D
Children's Services (Social Care)	Because a young person who is eligible for after care services (see above) is moving to or has moved to another local authority area	Children's Services (Social Care) in the new area	Children Act 1989, Section 24, as amended by Children (Leaving Care) Act 2000, sections Section 24C (1)

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A child or young person who is leaving or has left care continued

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Express Statutory Power
Voluntary Organisation	As above	Children's Services (Social Care) in new area	As above, Section 24C (2)
Social Service	Because the responsible Local Authority (responsible LA is the LA that held the last Care Order) has lost contact with a relevant care leaver and has to take reasonable steps to locate a young person who they have lost touch with	Any agency who has this information, most likely Health	Section 2 of the Children (Leaving Care) Act 2000 , paragraph (11)

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Adoption Agencies

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Express Statutory Power
Any adoption agency	Because an inquiry is being held under Section 81 of the Children's Act 1989	Anyone who is holding the enquiry	Adoption Agencies Regulations 1983 (SI 1983/1964) Regulation 15 (1) A written record must be kept by the adoption agency of any such disclosure
Any adoption agency	For a complaint about the adoption agency to be investigated or consideration given to any representation	Any person appointed by the adoption agency to investigate complaints or consider representations	Adoption Agencies Regulations 1983 (SI 1983/1964) Regulation 15 (1) A written record must be kept by the adoption agency of any such disclosure
Any adoption agency	Because it is felt to be in the interests of a child or prospective adopter if information is shared with another adoption agency.	Any other adoption agency	Adoption Agencies Regulations 1983 (SI 1983/1964) Regulation 16 A written record must be kept by the adoption agency of any such disclosure
Any adoption agency	Because the adoption agency intends to cease to act or exist	To the local authority or other adoption agency, in the same area	Adoption Agencies Regulations 1983 (SI 1983/1964) Regulation 16

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Asylum Seekers

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Express Statutory Power
<p>Police; National Criminal Intelligence Service; National Crime Squad; Customs and Excise or a person providing services to them in connection with the provision of those services; Any person specified, for the purposes specified in relation to that person (eg Asylum Teams within local authorities, Home Office, the National Asylum Support Service and the Refugee Council)</p>	<p>To provide the Secretary of State with any information held for use for immigration purposes, ie for the administration of immigration control; to detect or prevent criminal offences under Immigration Acts; provision of support for asylum seekers and their dependents and any other such purposes as may be specified</p>	<p>Secretary of State</p>	<p>Immigration and Asylum Act 1999, Section 20</p>
<p>Secretary of State</p>	<p>For the prevention, detection, investigation of prosecution of criminal offences; safeguarding national security; such other purposes as may be specified</p>	<p>A chief officer of police</p>	<p>Immigration and Asylum Act 1999, Section 21</p>

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Asylum Seekers continued

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Express Statutory Power
Secretary of State	National Criminal Intelligence Service (NCIS) purposes, ie for any functions of the NCIS mentioned in S 2 of the Police Act 1997, ie to gather, store and analyse information to provide criminal intelligence, to provide criminal intelligence to police forces in Great Britainthe National Crime Squad and other law enforcement agencies; to act in support of such police forces, the National Crime Squad and other law enforcement agencies carrying out their criminal intelligence activities	The Director General of the National Criminal Intelligence Services	Immigration and Asylum Act 1999, Section 21
Secretary of State	NCS purposes, ie any functions of the NCS mentioned in section 48 of the Police Act 1997	The Director General of the National Crime Squad	Immigration and Asylum Act 1999, Section 21

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Asylum Seekers continued

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Express Statutory Power
Secretary of State	In order for the body or person to carry out the services they have been authorised or are obliged to do	Asylum Teams within local authorities, Home Office, the National Asylum Support Service and the Refugee Council	Immigration and Asylum Act 1999, Section 21
Secretary of State	<p>For any customs purposes, ie</p> <p>Criminal offences; Conduct which would incur a non-criminal penalty under any Act; The assessment or determination of non-criminal; Checking the accuracy of information provided for Customs and Excise matters; Legal proceedings; Safeguarding national security</p>	The Commissioners of Customs and Excise, or a person providing services to them	Immigration and Asylum Act 1999, Section 21

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Appendix D - General Functions, Powers & Duties (Implied Statutory Powers)

Comment - to use implied statutory powers, stronger justification is required to demonstrate that it is necessary to share sensitive data without explicit consent. For sensitive data see above.

General

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Implied Statutory Power
Any Local Authority Department	Because the department has a statutory duty to carry out a particular function, eg filling in the Pupil Level Annual School Census by the Children's Services (Education)	Other agencies (including voluntary agencies) that hold relevant information to enable the LA department to carry out its statutory duty. Without the information they would not be able to carry out the particular function	Section 111 of the Local Government Act 1972, gives LAs the power "to do anything which is calculated to facilitate, or is conducive or incidental to the discharge of any of their functions"
Any Local Authority Department	Because the local authority considers that with the information it can: <ul style="list-style-type: none"> a) promote or improve the economic well-being in their area b) promote or improve the social well-being of their area c) promote or improve the environmental well-being of their area 	Any other agency who holds relevant information	Section 2 of the Local Government Act 2000, which gives the LA "a power to do anything they consider is likely to achieve any one or more of the objectives" as set out in column 2. So long as there are no restrictions or prohibitions or limitations in other enactments, ie must be compatible with the requirements of the Data Protection Act and the Human Rights Act and, unless the statutory provision clearly authorises disclosure, with the common law duty of confidentiality

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General continued

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Implied Statutory Power
Any Health Service within NHS	To provide a comprehensive health service in England and Wales to improve the physical and mental health of the population and to prevent and diagnose and treat illness	Other NHS practitioners working within the health service and practitioners from other agencies, eg Children's Services (Social Care), who are carrying out health service functions that would otherwise be carried out by the NHS	National Health Service Act 1977, Section 2
Any Health Service within NHS and Local Authority	In order for Health to exercise their Health Service functions and for the LA to exercise its functions in order to secure and advance the health and welfare of the people of England and Wales	As above	National Health Service Act 1977, Section 22

A child in need

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Implied Statutory Power
<p>Any Local Authority Any Children's Services (Education) Any Local Housing Authority Any Health Authority</p> <p>(all acting on behalf of the responsible LA)</p>	<p>Because it is felt that the child or young person or family is in need of services to safeguard and promote the welfare of a child or young person</p> <p>Section 17 of Children's Act states a child is in need if:</p> <p>(a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a local authority under this Part;</p> <p>(b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or</p> <p>(c) he is disabled.</p> <p>"Family" includes any person who has parental responsibility for the child and any other person with whom he has been living</p>	<p>Other agencies within this partnership who are involved with the child, young person or family and with any other agency that may provide the appropriate services (including voluntary agencies)</p>	<p>Children's Act 1989, Part III:</p> <ul style="list-style-type: none"> • Section 17 (1) (provision of service) This places a general duty on every LA to "a) safeguard and promote the welfare of children within their area who are in need and b) so far is consistent with that duty, to promote the upbringing of such children by their families, by providing a range and level of services appropriate to those children's needs" • Section 27 (1) (2) and (3) (other agencies acting on behalf of the LA) • Section 17 (5) (voluntary agencies) • Section 17 (10) and (11) (definition of a child in need) <p>Section 2 Local Government Act 2000</p>

A child in need continued

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Implied Statutory Power
Health Service	A child or young person has physical or mental health problems which require extra services	Any agency that can provide appropriate health services (that could be voluntary agency providing a health service)	National Health Service Act 1977, Section 1
Children's Services (Social Care)	<p>Because it is felt that another organisation could assist them to provide support for children in need and or their families</p> <p>Any authority to whom such a request is made has a duty to co-operate provided that the request is not incompatible with the performance of its own obligations or unduly prejudice the performance of their own functions</p>	<p>Other local authorities</p> <p>Any Children's Services (Education)</p> <p>Any local housing authority</p> <p>Any health authority</p>	Children Act 1989, Section 27

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A child or young person involved or likely to be involved in crime and disorder

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Implied Statutory Power
Children's Services (Social Care) Local Authority (any section)	To encourage children and young persons not to commit a crime	Youth Offending Team	Crime and Disorder Act 1998 Section 40(3) and Children's Act 1989 Schedule 3
Local Authority	To encourage children and young persons not to commit a crime	Any relevant agency to act on behalf of the Local Authority to discourage a child or young person from committing a crime	Children's Act 1989 Schedule 3
Police Local Authority (all services as applicable, eg Housing) National Park Authority Broads Authority Joint Authority Health Probation Youth Offending Team	Have reasonable belief that a child or young person is likely to commit a crime and therefore to prevent crime occurring	Any appropriate agency that can assist the child or young person to prevent them from committing a crime. For example Health, Youth Offending, Voluntary Agency if appropriate.	Crime and Disorder Act 1998 Section 115; Section 17(1); Section 37 and Section 38. Please note the amount of information disclosed must be only be disclosed on a need to know basis and the minimum amount of information necessary to fulfil the statutory duty should be provided. It can only be relied upon for authorities to work together to prevent/reduce crime.

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Children Reaching Statutory School Age - Admission to Schools

Agency	Why do you want to share/request information?	Who do you want to share with or request from?	Implied Statutory Power
Agency responsible for admissions to schools	The information is required annually to ensure all children are in receipt of the education to which they are entitled. Access to this education is in the best interest of the children and is their legal right. Contact details required for all children whose fourth birthday falls between the 1 September and the 31 August for the forthcoming school year	The primary care trust responsible for recording and holding details of all pre-school children for the local area.	Section 7 of the 1996 Education Act (duty on parents) Section 14 (1) of the 1996 Education Act (duty on LEA) Section 437 (1) of the 1996 Education Act (duty on LEA) Section 10 (1) and (2) of the Children's Act 2004 (duty on local authority) Section 2 (4) of the Local Government Act 2000 (power to local authority) Section 22 of the National Health Services Act 1977 (duty of Health Service and Local Authority)

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Appendix E - APPENDIX 3 of the “What To Do If You’re Worried A Child Is Being Abused” DoH Children’s Services Guidance 2003 (Adopted by the LSCB Pan Dorset Co-ordinating Committee as its Information Sharing Protocol)

INFORMATION SHARING

1 This guidance is about sharing information for the purposes of safeguarding and promoting the welfare of children. Sharing of information amongst practitioners working with children and their families is essential. In many cases it is only when information from a range of sources is put together that a child can be seen to be in need or at risk of harm.

2 You may be anxious about the legal or ethical restrictions on sharing information, particularly with other agencies. You should be aware of the law and should comply with the code of conduct or other guidance applicable to your profession. These rarely provide an absolute barrier to disclosure. You should be prepared to exercise your judgement. A failure to pass on information that might prevent a tragedy could expose you to criticism in the same way as an unjustified disclosure.

3 A decision whether to disclose information may be particularly difficult if you think it may damage the trust between you and your patient or client. Wherever possible you should explain the problem, seek agreement and explain the reasons if you decide to act against a parent or child’s wishes. It is often helpful to discuss such concerns with a senior colleague, designated professional, or, if you are a working in the NHS or local authority Children’s Services (Social Care), your Caldicott Guardian.

WHAT ARE THE LEGAL RESTRICTIONS?

4 The decision whether to disclose information may arise in various contexts. You may have a niggling concern about a child that might be allayed or confirmed if shared with another agency. You may be asked for information in connection with an assessment of a child’s needs under s17 of the Children Act 1989 or an enquiry under s47 of that Act or in connection with court proceedings. In all cases the main restrictions on disclosure of information are:

common law duty of confidence;

Human Rights Act 1998;

Data Protection Act 1998.

5 Each of these has to be considered separately. Other statutory provisions may also be relevant. But in general, the law will not prevent you from sharing information with other practitioners if:

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

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COMMON LAW DUTY OF CONFIDENCE

6 The circumstances in which a common law duty of confidence arises have been built up in case law over time. The duty arises when a person shares information with another in circumstances where it is reasonable to expect that the information will be kept confidential.

The courts have found a duty of confidence to exist where –

- *a contract provides for information to be kept confidential;*
- *there is a special relationship between parties, such as patient and doctor,*
- *solicitor and client, teacher and pupil;*
- *an agency or government department, such as Inland Revenue, collects and*
- *holds personal information for the purposes of its functions.*

the duty is not absolute. Disclosure can be justified if –

- *the information is not confidential in nature;*
- *the person to whom the duty is owed has expressly or implicitly authorised the*
- *disclosure;*
- *there is an overriding public interest in disclosure;*
- *disclosure is required by a court order or other legal obligation.*

IS THE INFORMATION CONFIDENTIAL?

7 Some kinds of information, such as medical records and communications between doctor and patient, are generally recognised as being subject to a duty of confidence. Other information may not be, particularly if it is trivial or readily available from other sources or if the person to whom it relates would not have an interest in keeping it secret. For example, a social worker who was concerned about a child's whereabouts might telephone the school to establish whether the child was in school that day.

MAINTAINING CONFIDENTIALITY

8 As a general rule you should treat all personal information you acquire or hold in the course of working with children and families as confidential and take particular care with sensitive information.

DISCLOSURE BY CONSENT

9 There will be no breach of confidence if the person to whom a duty of confidence is owed consents to the disclosure. Consent can be express (that is orally or in writing) or can be inferred from the circumstances in which the information was given (implied consent).

Whose consent is required? The duty of confidence is owed to the person who has provided information on the understanding it is to be kept confidential and, in the case of medical or other records, the person to whom the information relates.

- **Has consent been given?** You do not need express consent if you have reasonable grounds to believe that the person to whom the duty is owed understands and accepts that the information will be disclosed. For example, a person who refers an allegation of abuse to a social worker would expect that information to be shared on a 'need to know' basis with those responsible for following up the allegation. Any one who receives information, knowing it is confidential, is also subject to a duty of confidence. Whenever you give or receive information in confidence you should ensure there is a clear understanding as to how it may be used or shared.

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- **Should I seek consent?** If you are in doubt as to whether a disclosure is authorised it is best to obtain express consent. But you should not do so if you think this would be contrary to a child's welfare. For example, if the information is needed urgently the delay in obtaining consent may not be justified. Seeking consent may prejudice a police investigation or may increase the risk of harm to the child.
- **What if consent is refused?** You will need to decide whether the circumstances justify the disclosure, taking into account what is being disclosed, for what purposes and to whom.

DISCLOSURE IN THE ABSENCE OF CONSENT

10 The law recognises that disclosure of confidential information without consent or a court order may be justified in the public interest to prevent harm to others.

11 The key factor in deciding whether or not to disclose confidential information is **proportionality**: is the proposed disclosure a proportionate response to the need to protect the welfare of the child. The amount of confidential information disclosed, and the number of people to whom it is disclosed, should be no more than is strictly necessary to meet the public interest in protecting the health and wellbeing of a child. The more sensitive the information is, the greater the child-focused need must be to justify disclosure and the greater the need to ensure that only those professionals who have to be informed receive the material ('the need to know basis').

The 'Need to Know' Basis

Relevant Factors:

- what is the purpose of the disclosure?
- what are the nature and the extent of the information to be disclosed?
- to whom is the disclosure to be made (and is the recipient under a duty to treat the material as confidential)?
- is the proposed disclosure a proportionate response to the need to protect the welfare of a child to whom the confidential information relates?

IS THERE A DIFFERENCE BETWEEN DISCLOSING INFORMATION WITHIN YOUR OWN ORGANISATION OR TO ANOTHER ORGANISATION?

12 The approach to confidential information should be the same whether any proposed disclosure is internally within one organisation (e.g. within a school, or within Children's Services (Social Care)) or between agencies (e.g. from a teacher to a social worker).

13 The need to disclose confidential information to others within your own organisation will arise more frequently than will be the case for inter-agency disclosure. For example a teacher will need to discuss confidential information with the Year Head and the Head Teacher more frequently than with a social worker. Pupils and their parents would expect such discussions to take place within the school, so there will usually be implied consent. But if not (e.g. if you disclose information that a child has asked you to keep secret) you will have to decide whether the circumstances justify the disclosure.

WHAT IF THE DUTY IS TO A CHILD OR YOUNG PERSON?

14 A duty of confidence may be owed to a child or young person in their own right. A young person aged 16 or over, or a child under 16 who has the capacity to understand and make their own decisions, may give (or refuse) consent to a disclosure. Otherwise a person with parental responsibility should consent on their behalf.

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THE HUMAN RIGHTS ACT 1998

15 Article 8 of the European Convention on Human Rights (which forms part of UK law under the Human Rights Act 1998) recognises a right to respect for private and family life.

8.1 *Everyone has the right to respect for his private and family life, his home and his correspondence.*

8.2 *There shall be no interference by a public authority with exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, protection of health or morals or for the protection of rights and freedom of others.*

Article 8 ECHR

16 The right is not absolute. Disclosing confidential information to protect the welfare of a child could cause considerable disruption to a person's private or family life. This may, however, be justified by Article 8(2) if it is necessary to prevent crime or to protect the health and welfare of a child. Essentially it is the same 'proportionality' test as applies to the common law duty of confidence.

17 If sharing information is justified under the common law duty of confidence and does not breach the data protection requirements or any other specific legal requirements, it should satisfy Article 8.

THE DATA PROTECTION ACT 1998

18 The Data Protection Act 1998 regulates the handling of personal data. Essentially, this is information kept about an individual on a computer or on a manual filing system. The Act lays down requirements for the processing of this information, which includes obtaining, recording, storing and disclosing it.

19 If you are making a decision to disclose personal data you must comply with the Act, which includes the eight data protection principles. These should not be an obstacle if:

- you have particular concerns about the welfare of a child;
- you disclose information to Children's Services (Social Care) or to another professional; and
- the disclosure is justified under the common law duty of confidence.

20 The first and second data protection principles are the most relevant.

The First Principle

Personal data shall be processed fairly and lawfully and, in particular shall not be processed unless –

- (a) at least one of the conditions in Schedule 2 is met and,*
- (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is met.*

The Second Principle

Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.

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21 'Fairness' is being open with people about how information about them is to be used and the circumstances in which it might be disclosed. Most organisations take steps to make people aware of their policy when they first obtain information from them, for example, by including it on forms or leaflets or by notices in waiting areas. There are a number of exceptions to this requirement, in particular, if the disclosure is for the prevention or detection of crime (which includes neglect or abuse of a child) or is required by a court order or a statute.

22 A condition in Schedule 2 must be met. Those conditions establish whether there is a legitimate reason for sharing information. They include:

- the data subject (the person to whom the data relates) consents;
- the disclosure is necessary for compliance with a legal obligation;
- it is necessary to protect the vital interests of the data subject;
- it is necessary for the exercise of a statutory function, or other public function exercised in the public interest (e.g. for the purposes of an s17 assessment or an s47 enquiry); and
- it is necessary for the purposes of legitimate interests pursued by the person sharing the information, except where it is unwarranted by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.

23 There is a condition to cover most situations where a practitioner shares information to safeguard a child's welfare. In particular, the last condition (legitimate interest) is relevant in all cases and involves a proportionality test very similar to that applied to breaches of confidence.

24 If the information being shared is sensitive personal data, then a condition in Schedule 3 must also be met. Sensitive personal data relates to the data subject's:

- racial or ethnic origins;
- political opinions;
- religious beliefs;
- membership of a trade union;
- physical or mental health or condition;
- sexual life;
- criminal offences.

25 The relevant conditions in Schedule 3 are:

- the data subject has explicitly consented to the disclosure;
- it is necessary to protect the vital interests of the data subject or another person where the data subject's consent cannot be given or is unreasonably withheld or cannot reasonably be expected to be obtained;
- it is necessary to establish, exercise or defend legal rights;
- it is necessary for the exercise of any statutory function; and
- it is in the substantial public interest and necessary to prevent or detect an unlawful act and obtaining express consent would prejudice those purposes.

26 'Legal rights' include a child's rights under the Human Rights Act 1998 and defending those rights could include disclosures between professionals to establish whether a child's welfare needed to be safeguarded. Exercise of a statutory function would cover sharing of information amongst Children's Services (Social Care) and other agencies in connection with an s17 assessment or an s47 enquiry.

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27 The second data protection principle requires that the purpose for which information is disclosed is not incompatible with the purpose for which it was obtained. But it can be for a different purpose if there is no direct conflict. Disclosures for prevention or detection of crime or required by a court order or a statute are exempt from this requirement.

28 If you need advice about the data protection requirements, you should contact the data protection compliance officer in your organisation or, if you do not have one, you can contact the Information Commissioner (www.dataprotection.gov.uk).

OTHER STATUTORY PROVISIONS

29 Sections 27 and 47 of the Children Act 1989 enable local authorities to request help from specified authorities (other local authorities, children's services (education), housing authorities, NHS bodies) and places an obligation on those authorities to co-operate. A request could be for information in connection with an s17 assessment or an s47 enquiry. Neither provision would require an unjustified breach of confidence. But an authority should not refuse a request without considering all the circumstances.

30 Section 115 of the Crime and Disorder Act 1998 enables any person to disclose information to a relevant authority for any purposes of the Act if they would not otherwise have the power to do so. Relevant authorities include local authorities, NHS bodies and police authorities. The purposes of the Act broadly cover the prevention and reduction of crime and the identification or apprehension of offenders.

Appendix F – Key Contacts

Lead contacts for the Pan Dorset Information Sharing Protocol			
Dorset County Council	Jerry Brady	01305 224740	j.brady@dorsetcc.gov.uk
Borough of Poole	Jacqui Vye	01202 714743	j.vye@poole.gov.uk
Bournemouth Borough Council	Louise Johnson	01202 456114	Louise.Johnson@bournemouth.gov.uk
Dorset Primary Care Trust	Angela Baker	01305 361202	angela.baker@dorset-pct.nhs.uk
Bournemouth & Poole Primary Care Trust	Adrian Dawson	01202 443700	patricia.hocking@bp-pct.nhs.uk
Dorset Healthcare NHS Trust	Jo Ballantyne	01202 495125	jo.ballantyne@dorsethctr.swest.nhs.uk
CAF Database Co-ordinators			
Dorset County Council	Lee Bentley (Miss)	01305 228657	lee.bentley@dorsetcc.gov.uk
Borough of Poole	Jacqui Vye	01202 714743	j.vye@poole.gov.uk
Bournemouth Borough Council	Jane Potter	01202 456108	jane.potter@bournemouth.gov.uk

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Appendix G – Consent and Fraser Competent Guidelines

In many instances, you will seek consent to share information from the parent/carer. This is particularly the case in work with younger children and in any interventions which include support work with the family. However in some cases the child/young person will be able to give consent without referral to their parent/carer. This is possible if they are judged to be Fraser Competent

Children under 16 should always be encouraged to involve their parent/carer unless to do so could put them at risk of harm. Particular care should be taken with children with a disability, who are sometimes wrongly assumed not to be able to give consent.

The term, Fraser competent, arises from the case in the early 1980s when Victoria Gillick attempted to set a legal precedent which would have meant that medical practitioners could not give young people under the age of 16 treatment or contraceptive services without parental permission.

The ruling was initially successful but then the House of Lords ruled that young people who are under 16 are competent to give valid consent to a particular intervention if they have sufficient understanding and intelligence to enable them to understand fully what is proposed and are capable of expressing their own wishes.

Lord Fraser was the leading Law Lord for the review.

Although the ruling was initially in regard to medical consent, it is now generally felt that the ruling applies to consent for other services.

Appendices H, I and J

These forms are available to members of the Partnerships for use where decisions about consent need to be recorded. Other protocols exist, including the Common Assessment Framework format that record what happens regarding consent. It is important that decisions about consent are recorded on case files.

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Appendix H - Record of Disclosure Without Consent

Bournemouth, Dorset and Poole Children and Young People's Partnerships

This form must be completed when requesting or disclosing personal or sensitive information without the consent of the person concerned

Part A – REQUEST					Unique ID	
Agency Requesting Information						
Agency Information Requested From						
Subject Details						
Surname						
Forename(s)						
DOB		Sex	Male/Female	Ethnicity		
Address						
		Post Code				
State fully the purpose for which the information is required (eg if it is to carry out a statutory function please quote the relevant statute – see protocol for list of legislation)						
Nature of Information Required						
Was consent sought?		Yes <input type="checkbox"/>	No <input type="checkbox"/>	By Whom?		
Why was consent refused (if known)?						
Signed		Name		Date		
Part B - DISCLOSURE					Unique ID	
Grounds for Disclosure as Above		Agree <input type="checkbox"/>	Disagree <input type="checkbox"/>	If disclosure not agreed please give reasons.		
Information Disclosed		Continue on separate sheet if necessary, endorse with the above Unique ID				
Signed		Name		Date		

Note – the above/attached information is subject to the provisions of the Data Protection Act and Human Rights Act and the general rules of confidentiality (see Protocol). The information must not be used for any purpose other than that for which it was requested and must not be disclosed to an unauthorised person. There is an obligation upon you to ensure appropriate security measures are in place in respect of it. Once the information has served the required purpose and, where necessary, the required retention period, it should be destroyed as confidential waste.

Appendix I – Young Person's Consent to share information

Young Person's Details

Family Name	First Name (s)
Address	
Post Code	Date of Birth

I am the young person named above. I understand that information is held about me and I have been given and have read the privacy statement leaflet 'Why is personal information kept by agencies?'. I understand what this means and have had the opportunity to talk about any issues.

Consent: I agree to your sharing and requesting information about me with the agencies as listed below. I understand I can withdraw my consent at any time in writing to my lead worker.

It has been explained to me why it is necessary to share or gather the information, and what the information will be used for.

Agency/Agencies

.....

.....

.....

.....

.....

.....

.....

.....

Signed Date

Professional/Worker Date

Job Title Organisation

Parent/Carer Consent to Share Information

Child(ren) Details and/or Significant Adult(s) Details

Family Name	First Name	Also Known As	Date of Birth
Address			Post Code

I am the parent/carer of the child(ren) named above. I understand that information is held about my child(ren) and I have been given and have read the privacy statement leaflet 'Why is personal information kept by agencies?'. I understand what this means and I have had the opportunity to talk about any issues.

Consent: I agree to your sharing and requesting information about child(ren) named above with the agencies as listed below. I understand that this may also include information about myself and that I can withdraw my consent at any time by informing the lead worker in writing.

It has been explained to me why it is necessary to share or gather the information, and what the information will be used for.

Agency/Agencies

Signed _____ Date _____
 *Parent/Carer/Guardian/Other Adult

Signed _____ Date _____
 *Parent/Carer/Guardian/Other Adult

Practitioner _____ Date _____

Job Title _____ Organisation _____

- Please delete as appropriate
 If "other adult" please state relationship to child(ren)

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Appendix J – Additional Information

National Guidance on Information Sharing

Please note that a national guide to information sharing has been produced across Government departments:

Information Sharing: Practitioners' guide – integrated working to improve outcomes for children and young people can be downloaded from the Every Child Matters website at:

www.everychildmatters.gov.uk/resources-and-practice/IG00065/

ContactPoint

The Children Act 2004 Section 12 requires the introduction of the national children's index – ContactPoint. This protocol will be updated as this section of the legislation is adopted. The latest information is available at:

www.everychildmatters.gov.uk/deliveringservices/contactpoint/

The pan-Dorset Information Sharing Protocol will be part of a framework of guidance used by services who have access to the ContactPoint system

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