

## Seven Golden Rules for Information Sharing

- 1. Remember that the Data Protection Act is not a barrier to sharing information** but provides a framework to ensure that personal information about living persons is shared appropriately.
- 2. Be open and honest** with the person (and/or their family where appropriate) from the outset about why, what, how and with whom information will, or could be shared, and seek their agreement, unless it is unsafe or inappropriate to do so.
- 3. Seek advice** if you are in any doubt, without disclosing the identity of the person where possible.
- 4. Share with consent where appropriate** and, where possible, respect the wishes of those who do not consent to share confidential information. You may still share information without consent if, in your judgement, that lack of consent can be overridden in the public interest. You will need to base your judgement on the facts of the case.
- 5. Consider safety and well-being:** Base your information sharing decisions on considerations of the safety and well-being of the person and others who may be affected by their actions.
- 6. Necessary, proportionate, relevant, accurate, timely and secure:** Ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those people who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely.
- 7. Keep a record** of your decision and the reasons for it – whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose.

### Is there sufficient public interest to share the information?

Even where you do not have consent to share confidential information, you may lawfully share it if this can be justified in the public interest. Seeking consent should be the first option, however, where consent cannot be obtained or is refused, or where seeking it is inappropriate or unsafe. For example, if doing so would:

- place a person (the individual, family member, yourself or a third party) at increased risk of significant harm if a child, or serious harm if an adult; or
- prejudice the prevention, detection or prosecution of a serious crime; or
- lead to an unjustified delay in making enquiries about allegations of significant harm to a child, or serious harm to an adult.

The question of whether there is a sufficient public interest must be judged by the practitioner on the facts of each case. **Therefore, where you have a concern about a person, you should not regard refusal of consent as necessarily precluding the sharing of confidential information.**

A public interest can arise in a wide range of circumstances, for example, to protect children from significant harm, protect adults from serious harm, promote the welfare of children or prevent crime and disorder. There are also public interests, which in some circumstances may weigh against sharing, including the public interest in maintaining public confidence in the confidentiality of certain services.

The key factors in deciding whether or not to share confidential information are necessity and proportionality, i.e. whether the proposed sharing is likely to make an effective contribution to preventing the risk and whether the public interest in sharing information overrides the interest in maintaining confidentiality. In making the decision you must weigh up what might happen if the information is shared against what might happen if it is not and make a decision based on professional judgement. The nature of the information to be shared is a factor in this decision making, particularly if it is sensitive information where the implications of sharing may be especially significant for the individual or for their relationship with the practitioner and the service.

It is not possible to give guidance to cover every circumstance in which sharing of confidential information without consent will be justified. You must make a judgement on the facts of the individual case. Where there is a clear risk of significant harm to a child or serious harm to an adult, the public interest test will almost certainly be satisfied. There will be other cases where you will be justified in sharing limited confidential information in order to make decisions on sharing further information or taking action – the information shared should be necessary for the purpose and be proportionate.

There are some circumstances in which sharing confidential information without consent will normally be justified in the public interest. These are:

- when there is evidence or reasonable cause to believe that a child is suffering, or is at risk of suffering, significant harm; or
- when there is evidence or reasonable cause to believe that an adult is
- suffering, or is at risk of suffering, serious harm; or
- to prevent significant harm to a child or serious harm to an adult, including through the prevention, detection and prosecution of serious crime.

An exception to this would be where an adult with capacity to make decisions puts themselves at risk but presents no risk of significant harm to children or serious harm to other adults. In this case it may not be justifiable to share information without consent. You should seek advice if you are unsure. If you are unsure whether the public interest justifies disclosing confidential information without consent, you should be able to seek advice from your manager or the Caldicott Guardian or Health Records and Caldicott support lead whose role is to support you in these circumstances. Where possible you should not disclose the identity of the person concerned. Other sources of advice

include the Information Commissioner's Office (ICO) and your Local Safeguarding Adults Board or Local Safeguarding Children Board. Advice can also be sought from representative bodies, for example, the British Medical Association or the Royal College of Nursing.

All organisations working with children will have a nominated person who undertakes a lead role for safeguarding children. If the concern is about possible abuse or neglect of a child or young person, you should discuss your concerns with your manager or the nominated person within your organisation or area. If you still have concerns, you should refer your concerns to children's social care and/or the police in line with your Local Safeguarding Children Board procedures.

You should discuss any concerns with the family and, where possible, seek their agreement to making referrals to children's social care **only where such discussion and agreement-seeking will not place a child at increased risk of significant harm, or any other individual at increased risk of serious harm, or lead to interference with any potential investigation.** The child's safety and well-being must be the overriding consideration in making any such decisions.

If you decide to share confidential information without consent, you should explain to the person that you intend to share the information and why, unless it is inappropriate or unsafe to do so.

### **Are you sharing information appropriately and securely?**

If you decide to share information, you should share it in a proper and timely way, act in accordance with the principles of the Data Protection Act 1998, and follow your organisation's policy and procedures. In relation to sharing information at the front-line, you will need to ensure that you:

- share only the information necessary for the purpose for which it is being shared;
- understand the limits of any consent given, especially if the information has been provided by a third party;
- distinguish clearly between fact and opinion;
- share the information only with the person or people who need to know;
- check that the information is accurate and up-to-date;
- share it in a secure way, for example, confirm the identity of the person you are talking to; ensure that a conversation or phone call cannot be overheard; use secure email; ensure that the intended person will be on hand to receive a fax;
- establish with the recipient whether they intend to pass it on to other people, and ensure they understand the limits of any consent that has been given; and
- inform the person to whom the information relates and, if different, any other person who provided the information, if you have not done so already and it is safe to do so.

In deciding what information to share, you also need to consider the safety of other parties, such as yourself, other practitioners and members of the public. If the information you want to share allows another party to be identified, for example, from details in the information itself or as the only possible source of the information, you need to consider if sharing the information would be reasonable in all circumstances. Could your purpose be met by only sharing information that would not put that person's safety at risk?

### **Have you properly recorded your information sharing decision?**

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 work within the Trust/Local Authority arrangements for recording information and within any local information sharing procedures in place.