

Information Sharing – Guidance for Practitioners working with Children, Young People and Families

Haringey Children's Trust

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(1) Introduction

Sharing information is vital for safeguarding the welfare of children and young people and for providing effective and efficient services that are co-ordinated around the needs of a child or young person and their family. In Haringey, we encourage a culture where information is shared with confidence as part of routine service delivery. We also recognise that it is important people remain confident their personal data is kept safe and secure and practitioners maintain the privacy rights of the individual.

We know that practitioners recognise the importance of information sharing, however in some situations they may be uncertain about whether they can do so lawfully. This is especially true in early intervention and preventative work where information sharing decisions may be less clear than in safeguarding or child protection situations where the timely sharing of information is essential.

This guidance is for all practitioners working with children, young people and families in Haringey. It provides clear advice on when and how information can be shared legally and professionally, in order to achieve improved outcomes.

Information sharing is one of the three interdependent elements of Integrated Working, alongside the Common Assessment Framework (CAF) and the lead professional/ Team Around the Child (TAC).

i. The Common Assessment Framework (CAF)

A framework to help practitioners work with children, young people and families to assess children and young people's additional needs for earlier and more effective services, develop a common understanding of those needs and how to work together to meet them.

ii. The lead professional

The person responsible for co-ordinating the actions identified in the assessment process; a single point of contact for children and young people with additional needs, supported by more than one practitioner within a Team Around the Child (TAC).

iii. Information sharing

Helping practitioners work together more effectively to meet children and young people's needs through sharing information legally and professionally.

This guidance is part of a suite of Integrated Working guidance documents for Haringey, alongside guidance on the CAF and the lead professional/TAC (available at www.haringey.gov.uk/integratedworking). It is adapted from the Government publication *Information Sharing: Guidance for practitioners and managers* (2008). This guidance also supports the implementation of the Haringey Children's Trust *Information Sharing Protocol*. This document sets out the commitment of all Trust members to sharing information in order to

improve outcomes and outlines the principles and standards of expected conduct and practice they will all adopt.

Significant harm to infant, child or young person

If you have any concerns that an infant, child or young person may be or is at risk of significant harm or has been harmed or abused then you must make immediate telephone contact with First Response (contact details below). You will then be asked to confirm the referral by completing the First Response referral form and submitting it to First Response within 48 hours.

First Response

Address: 48 Station Road, 5th Floor, Wood Green, London N22 7TY

Tel: - 020 8489 4592 / 4582 / 5652/ 5762 - during office hours
(Monday to Thursday 8.45am to 5pm; Friday 8.45am to 4.45pm)
- 020 8348 3148 - out of office hours (including weekends)

Fax: - 020 8489 2110

Why information sharing is important

Sharing information as part of early intervention and preventative services – Early intervention aims to prevent problems escalating and increase the chances of positive outcomes. This depends on effective partnership working and appropriate information sharing between services.

Sharing information between adult and children's services - Staff in adults' services are aware that problems faced by clients who have parenting responsibilities are often likely to affect children and other family members. However this information is not always shared and opportunities to put preventative support in place for the children and family are missed. Where an adult receiving services is a parent or carer, sharing information where appropriate with colleagues in children's services could ensure that any additional support required for their children can be provided early.

Sharing information to support transitions – At key transition points such as starting nursery or a Children's Centre, moving from primary to secondary school or moving into adulthood, information-sharing is particularly important to ensure that the child or young person gets the support they need.

Sharing information where there are concerns about significant harm to a child or young person - If you have any concerns that an infant, child or young person may be or is at risk of significant harm or has been harmed or abused then you must make immediate telephone contact with First Response (see box above).

(2) 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 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 – for example, where you have concerns regarding significant harm or abuse. 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.

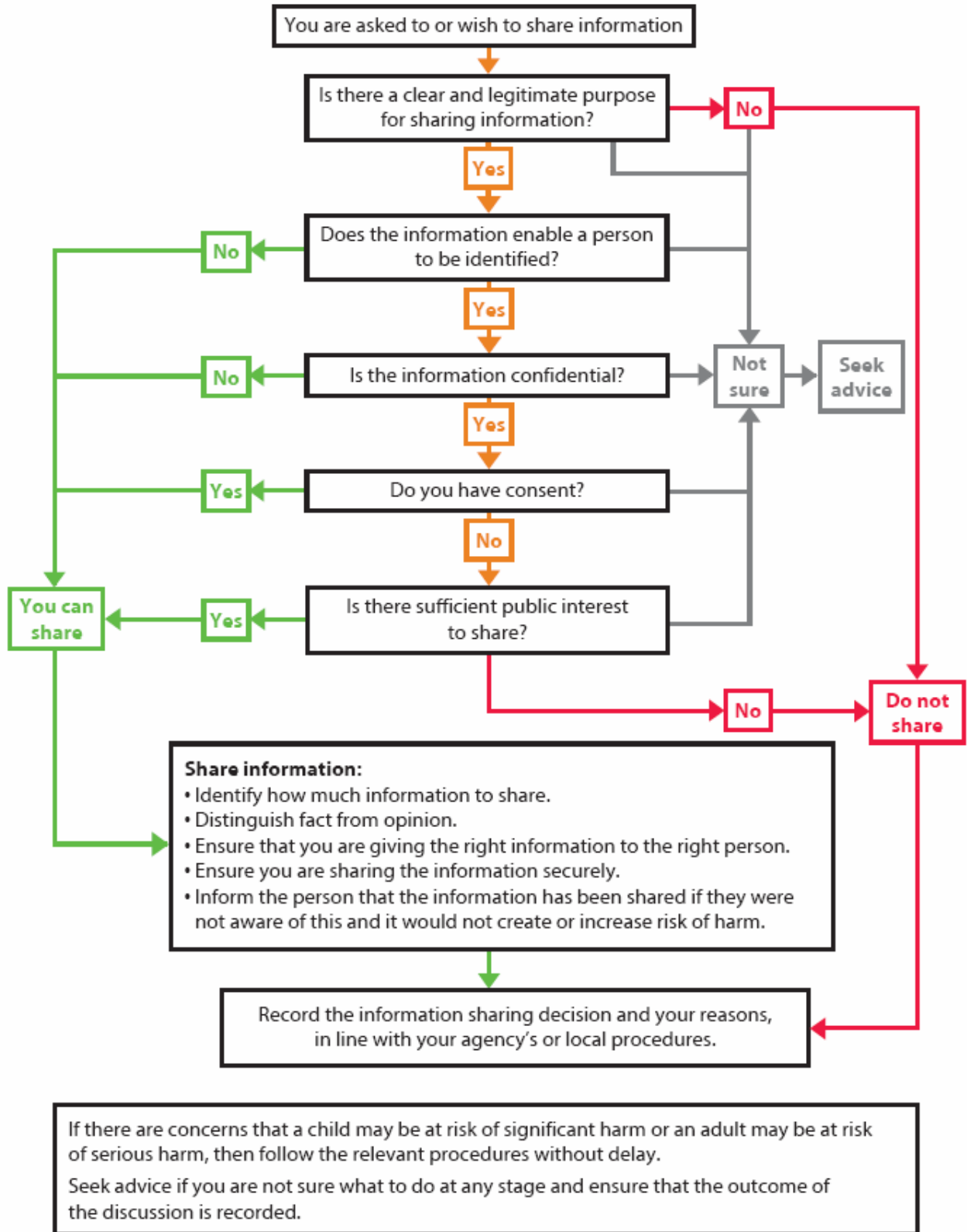
(3) Further information to inform decision making

Unless there is a statutory duty or court order to share information, information-sharing decisions must be based on your professional judgement. To inform your decision making this section sets out further information in the form of seven key questions about information sharing:

1. Is there a clear and legitimate purpose for you or your agency to share the information?
2. Does the information enable a living person to be identified?
3. Is the information confidential?
4. If the information is confidential, do you have consent to share?
5. If consent is refused, or there are good reasons not to seek consent to share confidential information, is there a sufficient public interest to share the information?
6. If the decision is to share, are you sharing information appropriately and securely?
7. Have you properly recorded your information sharing decision?

These questions are illustrated in the flowchart below. Further information on each of the questions can be found in the remainder of this section¹.

Figure 1: Flowchart of key questions for information sharing



¹ Reproduced from HM Government guidance

Question 1: Is there a clear and legitimate purpose for you or your agency to share the information?

If you are asked, or wish, to share information about a person you need to have a good reason or a clear and legitimate purpose to do so. Ask yourself:

- Why do you or the other person want the information?
- What is the outcome you are trying to achieve?
- Could the aims be achieved without sharing the information?

Of course, where you are required by a statutory duty or a court order to share information, then you must do so, even if it is confidential and consent has not been given, unless in the case of a court order, your organisation is prepared to challenge it and is likely to seek legal advice.

Question 2: Does the information enable a living person to be identified?

Anonymised information which does not and cannot be used to establish the identity of a living person (*'depersonalised information'*) can generally be shared. However, if the information is about an identifiable living individual, or could enable a living person to be identified when considered with other information, it is *personal information* and is subject to data protection and other laws. This means you will need to consider the issues of confidentiality, consent, and public interest set out in the subsequent 'key questions' to inform your decision.

You should be open from the outset about what information you might need to share and why. However, it may not be appropriate to inform a person that information is being shared, or seek consent to this sharing. This is the case if informing them is likely to hamper the prevention or investigation of a serious crime, or put a child at risk of significant harm or an adult at risk of serious harm.

Question 3: Is the information confidential?

Confidential information is information of a private or sensitive nature that:

- is not already lawfully in the public domain or readily available from another public source; and
- has been provided in circumstances where the person giving the information could reasonably expect that it would not be shared with others.

This is a complex area and you should seek advice if you are unsure as to whether some specific information is or is not confidential.

There are different types of circumstances that are relevant to confidentiality. Where a formal confidential relationship exists (e.g. doctor/patient or social worker/client), all information provided by the individual needs to be treated as confidential, but this does not mean that it should not be appropriately

shared. In other situations, you may be asked to treat some specific information confidentially, or sometimes people may not specifically ask but instead assume that personal information will be treated as confidential. Sometimes information not generally regarded as confidential (such as name and address) may be provided in the expectation of confidentiality and therefore should be considered to be confidential information. It is good practice to check with the individual whether the information is or is not confidential, the limits around confidentiality and under what circumstances information may or may not be shared with others.

Information about an individual or family is confidential to the agency as a whole, and not to individual practitioners. However individual practitioners do have a responsibility to maintain the confidentiality of the information. They should only share confidential information with other practitioners in the same agency or team for genuine purposes, for example, to seek advice on a particular case or ensure cover for work while on leave. This should be explained clearly to the individual or family at the start of the involvement.

Question 4: Do you have consent to share?

If you wish or are asked to share confidential information, you should seek consent where possible and respect the wishes of those who do not consent. You may still share information without consent if, in your judgement on the facts of the case, that lack of consent can be overridden in the public interest (see 'Question 5').

When consent should not be sought

There will be some circumstances where you should not seek consent, for example, where doing so would:

- place a child at increased risk of significant harm; or
- place an adult at increased risk of serious harm; or
- prejudice the prevention, detection or prosecution of a serious crime; or
- lead to unjustified delay in making enquiries about allegations of significant harm or serious harm.

What constitutes consent

Consent must be 'informed' – the person giving consent needs to understand why information needs to be shared, what will be shared, who will see their information, the purpose to which it will be put and the implications of sharing that information. Obtaining explicit, written consent is best practice, as it reduces the scope for subsequent dispute.

Whose consent to seek

A young person aged 16 or over is presumed, in law, to have the capacity to give or withhold their consent to sharing of confidential information, unless there is evidence to the contrary.

Children and young people under the age of 16 may give (or refuse) consent to sharing if they have the capacity to understand and make their own decisions. Children aged 12 or over may generally be expected to have sufficient understanding, and younger children may also have sufficient understanding, however it is crucial that you assess for each particular child or young person on each particular occasion whether this is so. You will need to consider:

1. *Can the child or young person understand the question being asked of them?*
2. *Do they have a reasonable understanding of:*
 - what information might be shared;
 - the main reason or reasons for sharing the information; and
 - the implications of sharing that information, and of not sharing it?
3. *Can they:*
 - appreciate and consider the alternative courses of action open to them;
 - 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; and
 - be reasonably consistent in their view on the matter, or are they constantly changing their mind?

When assessing a child's understanding you should explain the issues to the child in a way that is suitable for their age, language and likely understanding. Where applicable, you should use their preferred mode of communication.

In most cases, where a child cannot consent or where you have judged that they are not competent to consent, you should ask a person with parental responsibility to consent on behalf of the child. If a child or young person is judged not to have the capacity to make decisions, their views should still be sought as far as possible.

Where parental consent is required, the consent of one such person is sufficient. In situations where family members are in conflict you will need to consider carefully whose consent should be sought. If the parents are separated, the consent would usually be sought from the parent with whom the child resides. If a care order is in force, the local authority will share parental responsibility with parent(s) and practitioners should liaise with them about questions of consent.

If you judge a child or young person to be competent to give consent, then their consent or refusal to consent is the one to consider, even if a parent or carer disagrees. Where parental consent is not required, you should encourage the young person to discuss the issue with their parents. However, you should not withhold the service on the condition that they do so.

These issues can raise difficult dilemmas. Wherever appropriate you should try to work with all involved to reach an agreement or understanding of the information to be shared. You must always act in accordance with your professional code of practice where there is one and consider the safety and well-being of the child, even where that means overriding refusal to consent. You should seek advice from your manager or nominated advisor if you are unsure.

Question 5: Is there sufficient public interest to share the information?

Seeking consent should be the first option. However, where consent cannot be obtained or is refused, or where seeking it is inappropriate or unsafe, you may still lawfully share it if this can be justified in the public interest. The question of whether there is a sufficient public interest must be judged by the practitioner based on the facts of each case. **Therefore, where you have a concern about a child or young 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
- to protect adults from serious harm
- to promote the welfare of children
- to 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.

It is not possible to give guidance to cover every circumstance in which sharing of information without consent will be justified. You must make a judgement on the facts of the individual case. In making the decision you must weigh up what might happen if the information is shared against what might happen if it is not, consider whether sharing the information is a proportionate response to the situation, and make a decision based on professional judgement. If you are at all unsure, speak to your manager.

There are some circumstances in which sharing confidential information without consent will almost certainly 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.

If your concern is about possible abuse or neglect of a child or young person, you should talk to the designated person for child protection within your organisation. Haringey Local Safeguarding Children Board's 'Thresholds of Need' (available at http://www.haringeylscb.org/thresholds_of_need.pdf) provide further guidance. If you still have concerns then you must make immediate telephone contact with First Response.

If you decide to share confidential information without consent, you should explain to the person that you intend to share the information and why, **only where it is safe and appropriate to do so.**

Question 6: Are you sharing information appropriately and securely?

If you decide to share information, you will need to ensure that you:

- Only share what is necessary to achieve the purpose, distinguishing clearly between fact and opinion.
- Share only with the person or people who need to know the information.
- Make sure the information is accurate and up-to-date.
- Understand the limits of any consent given and especially if the information has been provided by a third party.
- Check who will see the information and share the information in a secure way. For example, confirm the identity of the person you are talking to; ensure 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 that they understand the limits of any consent that has been given.
- Inform the person to whom the information relates that you are sharing the information, if it is safe to do so, and if you have not already told them that their information may be shared.

Question 7: Have you properly recorded your information sharing decision?

You should record your decision and the reasons for it in line with your agency's arrangements for recording information, whether or not you decide to share information. If the decision is to share, you should record what information was shared and with whom.