



Keeping Adults Safe  
in Shropshire  
Board

## Information Sharing Protocol and Practice Guidance

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## Introduction and purpose

This document outlines the expected standards of confidentiality and disclosure in relation to Adult Safeguarding. It applies to all members of the Keeping Adult Safe in Shropshire Board and others working with adults with care and support needs in Shropshire.

The document also provides practice guidance to front line staff and managers; and explains how we share information between agencies who are involved in Adult Safeguarding.

The Keeping Adult Safe in Shropshire Board is committed to ensuring information is shared appropriately to prevent harm to adults with care and support needs. Information should be shared at the earliest opportunity to ensure an effective multi-agency response. This would be where there are emerging concerns about abuse or neglect or the need to act proactively to prevent it (DoH, 2018:14:43).

## Legislation and Guidance

This document should be considered alongside SCIE's Webpages on "[Adult safeguarding: sharing information](#)". (SCIE: 2018) and [Appendix 1: Seven golden rules for Information Sharing](#) (HM Government:2018). These offer practical advice as well as explaining legal responsibilities.

### Legal requirements

The following [legal requirements](#) are taken account of in this document:

- Common Law Duty of confidentiality
- Caldicott Principles
- Human Rights Act 1998
- Crime and Disorder Act 1998
- Mental Capacity Act 2005
- Safeguarding Vulnerable Groups Act 2006
- Protection of Freedoms Act 2012
- [Data Protection Act 2018 \(including General Data Protection Regulations GDPR\)](#)
- [Care Act 2014](#)
- [Care and Support Statutory Guidance 2016 \(particularly Chapter 14\)](#)

### Associated Policies and Procedures

The following local policies and procedures are associated and should be read along with this document:

- [KASiSB Safeguarding Process in Shropshire](#)
- [Shropshire and Telford & Wrekin Multi-Agency Mental Capacity Act Guidance](#) (currently under review)

### Good practice guidance

In addition to this document, practitioners and managers should also make themselves aware of and apply to their practice the following guidance and rules in relation to information sharing in Adult Safeguarding

- [7 Golden Rules for Information Sharing](#)
- [Applying the 6 Adult Safeguarding Principles to Information Sharing](#)

## Common Agreement of Confidentiality and Sharing Information

The following principles apply to sharing information under this agreement:

- Information will only be shared proportionately on a 'need to know' basis when it is in the interests of the adult.
- Confidentiality must not be confused with secrecy.
- It is inappropriate for agencies to give assurances of absolute confidentiality in cases where there are concerns about abuse, particularly in those situations when other adults or children may be at risk of abuse or neglect.
- Informed consent should be obtained from the adult identified at risk by the person/organisation identifying the concern. If this is not possible and other adults are at risk of abuse or neglect, it may be necessary to override the requirement. See [When a person does not want information to be shared](#)
- No professional should assume that someone else will pass on information which they think may be important to ensure the safety and wellbeing of the adult

(DoH:2018:14:43, 2)

## Information sharing and the Board

The Keeping Adults Safe in Shropshire Board has a legal power to request and be provided with information held by individuals or organisations, to make sure that it can co-ordinate and ensure the effectiveness of adult safeguarding arrangements in Shropshire (s45 Care Act 2014).

The Board will also share information as outlined in this Protocol; so that it can carry out its legal obligations as set out in the relevant sections of Care Act 2014 and Care and Support Statutory Guidance 2018. This includes sharing of personal data for the purposes of conducting Safeguarding Adults Reviews and other multi-agency learning or audit activity for the purposes of assurance.

The Board “may request a person to supply information to it or to another person. The person who receives the request must provide the information to the SAB [Safeguarding Adult Board] if:

- the request is made to enable or assist the SAB to do its job
- the request is made of a person who is likely to have relevant information and then either:
  - the information requested relates to the person to whom the request is made and their functions or activities
  - the information requested has already been supplied to another person subject to an SAB request for information”

(DoH: 2018:14.186)

The activity of the Keeping Adults Safe in Shropshire Board is administered by the Safeguarding Boards Business Unit; who will ensure that it fulfils the organisational responsibilities set out below.

## Organisational Responsibilities

All relevant organisations to whom this Protocol applies must have its own data protection arrangements in place that are compliant with the applicable statutory provisions relating to data protection and human rights outlined above.

All organisations must have arrangements in place that relate to:

- Information storage
- Retention
- Disposal
- Data quality
- Information governance
- Providing appropriate staff training on information sharing and management
- Access to expertise

As part of the organisational arrangements; individual service users must be provided with privacy information which tells them how and when their information is shared with the Keeping Adults Safeguarding Board, and in everyday safeguarding practice (as outlined in this document). This should form part of the privacy information provided to them. Where privacy information is not provided to an individual; the organisation must have a lawful basis for not providing this information to them (ICO:2018).

## Information Sharing in Practice

### Involvement and consent of the individual

The adult has a number of [personal data rights](#) that practitioners, managers and organisations must be aware of and consider when making decisions to share the adults information. Information sharing is the “processing” of the individual’s personal data. Practitioners, managers and organisations must have a [lawful basis](#) to share information and must be clear on what basis that is when making a decision to do so. Safeguarding duties as set out in the Care Act 2014 and Care and Statutory Support Guidance are a public task. However, information sharing “must be necessary. If you could reasonably perform your tasks or exercise your powers in a less intrusive way, this lawful basis does not apply” (ICO:2018: ‘Public task’).

Therefore, the adult (or their representative) should, where possible, be involved and aware of the sharing of information at the earliest opportunity. Adults should be aware of any safeguarding concerns raised (unless this increases the risk to them or others). This “enables safeguarding to be done with, not to, people” which is more likely to enable a meaningful improvement to their safety and wellbeing (ADASS:2018)

“Frontline workers and volunteers should always share safeguarding concerns in line with their organisation’s policy, usually with their line manager or safeguarding lead in the first instance, except in emergency situations. As long as it does not increase the risk to the individual, the member of staff should explain to them that it is their duty to share their concern with their manager” (SCIE: 2018: ‘What if a person does not want you to share their information?’).

Practitioners should consider the following questions before formally raising a safeguarding concern:

1. Have you discussed your concerns with the adult and get their view about what is happening?
2. Does the adult want to raise the concern?
3. Does the adult need support to raise the concern?
4. Does the adult want the concern to be raised on their behalf?

If you have answered “no” to any of these questions you must consider:

5. Is there an overriding public or vital interest of an individual(s) that means the concerns needs to be raised anyway?

(Littleford:2018)

It is important that the decision to override is proportionate and necessary to protect the public or vital (protection of life) interest of an individual(s)

### When a person does not want information to be shared

It is important that practitioners consider possible reasons why individuals may not want their information to be shared.

Possible reasons for refusal might include:

- Fear of reprisals
- Fear of losing control
- A lack of trust in services
- Fear that their relationships may be damaged
- A lack of information, awareness or agreement or that they are at risk of or experiencing abuse or neglect.
- A lack of capacity to consent to the decision to share safeguarding information

If the adult is refusing to consent; it is important that practitioners work with them in a supportive and reassuring way; encouraging them to consider all of the information available and possible outcomes of not sharing information by:

- Applying the 5 guiding principles of the Mental Capacity Act
- Establishing whether coercion or duress is involved. This might include coercion and duress to the point that the person may lack capacity.
- Enquiring about the frequency and seriousness of the abuse
- Exploring the reasons for the person’s objections – what are they worried about?
- Explaining the concern and why you think it is important to share the information
- Telling the person what information you would like to share, who with and why
- Explaining the benefits, to them or others, of sharing information
- Discussing the consequences of not sharing the information
- Reassuring them that the information will not be shared with anyone who does not need to know
- Reassuring them that they are not alone, and that support is available to them

If a person continues to refuse intervention to support them with a safeguarding concern, or requests that information about them is not shared with other safeguarding partners, their wishes should be respected **unless** it is in the public or vital interest of the adult.

The key factor in deciding whether or not to share confidential information without the involvement of the adult is necessary and proportionate: whether sharing information is a response in proportion to the need to protect the public or vital interest in question. In making the decision, the practitioner must weigh up what might happen if the information is shared against what might happen if it is not and decide based on a reasonable judgement. In the case of health and social care information, the appropriate Caldicott Guardian should be consulted.

Circumstances of public or vital interest of the adult would include where:

- The adult lacks the mental capacity to make that decision – this must be properly explored and recorded in line with the Mental Capacity Act 2005
- The person has the mental capacity to make that decision, but they may be under duress or being coerced
- Other people are, or may be at risk, including children
- The source of risk has care and support needs and may also be at risk
- A relevant crime has been committed or sharing the information could prevent a crime
- Staff are implicated including those in a position of trust including volunteers
- In domestic abuse situations, the risk meets the criteria for a Multi-Agency Risk Assessment Conference referral
- A court order or other legal authority has requested the information.

If none of the above apply and the decision is not to share safeguarding information with other safeguarding partners, or not to intervene to safeguard the person then the following approach should take place:

- Support the person to weigh up the risks and benefits of different options
- Ensure they are aware of the level of risk and possible outcomes
- Offer to arrange for them to have an advocate or peer supporter
- Offer support for them to build confidence and self-esteem if necessary
- Agree on and record the level of risk the person is taking
- Record the reasons for not intervening or sharing information
- Regularly review the situation with them

(SCIE:2018)

### Sharing information with the adult's family, carers and others

It is good practice, unless there are clear reasons for not doing so, to work with the carers, family and friends of an individual to help them to get the care and support they need.

Sharing information with these people should always be with the consent of the individual. The above section on [“When a Person Does Not Want Information to be Shared”](#) should be considered if they do not or cannot consent.

If the person lacks the mental capacity to decide about sharing information with key people, then the Mental Capacity Act should be followed to ensure each decision to share information is in the person's best interests.

Decisions and reasoning should always be recorded.

(SCIE:2018)

## Sharing information with the potential source of risk

The sharing of information can sometimes result in further formal processes including safeguarding processes, internal disciplinary processes and criminal investigation and prosecution. As part of these processes, the person or organisation identified as the potential source of risk has a right to respond to any allegations made about them. This right must be upheld to ensure their individual rights and freedoms are respected and they are treated in a fair and just manner. But this must also be balanced and considered with the rights and freedoms of the adult or others who may be at risk when disclosure of information is made.

Therefore, it is important that when deciding to share information, professionals consider and balance the risk and means of managing the disclosure of the identities of the person raising the concern and the adult with care and support needs. This is of importance when there is evidence to suggest that unmanaged disclosure may increase the risk posed to the adult, the person raising the concern, or the person identified as the potential source of risk or others.

It is therefore important that professionals and organisations consider and address these risks when disclosing or choosing not to disclose information. It is furthermore vital that agencies work together to ensure that when disclosure is necessary, it is appropriately managed so as to minimise any risks to all parties that may be identified as a result of the disclosure.

All people, including the person identified as a potential source of risk have the same [personal data rights](#). Practitioners, managers and organisations must be aware of which [lawful basis](#) is being relied upon when making decisions to disclose to or withhold information from the potential source of risk; and be clear about this in decision making rationale.

## Allegations against staff or volunteers in a position of trust

Please refer to the KASISB Position of Trust Framework (if the individual potential source of risk is working with adults with care and support needs) and the [West Midlands Children's Safeguarding Procedures: Allegations against staff or volunteers](#). (if the potential source of risk is working with children) for further guidance on information sharing in such circumstances.

## Powers or obligations to share information with the Disclosure and Barring Service, professional bodies and regulators

In certain situations, there will be a legal duty to share information for instance with the Disclosure and Barring Service (DBS). If organisations are providing 'regulated activities' they must refer individuals to the DBS for consideration for inclusion on the Adults Barred List in certain situations, this duty is contained in the Safeguarding Vulnerable Groups Act (2006) (further amended by the Protection of Freedoms Act (2012)). Shropshire Council in exceptional cases may need to rely on its power to refer to the DBS if a provider fails to carry out its legal duty to do so.

For more practical information and guidance, please go to [SCIE:2018: 'Referring to the Disclosure and Barring Service'](#)



In some cases, an individual will need to be referred to their professional body. The relevant organisational should refer an individual to the professional body where there are concerns about their fitness to practice.

For more practical information and guidance, please go to: [SCIE:2018 'Professional codes of practice'](#)

Information relating to a regulated service may also need to be shared with the relevant regulator (such as Clinical Commissioning Group, Local Authority, Care Quality Commission or OfSTED).

### Information Management and Recording

Good record keeping is a vital component of professional practice. Detailed, relevant record keeping will greatly improve the opportunity to safeguard adults. Whenever safeguarding concerns arise, or a complaint or allegation of abuse are made; all agencies should keep clear and accurate records and look for past incidents, concerns, risks and patterns (DoH, 2016:14.180).

Organisations should retain records in line with:

- their retention policies
- good practice guidelines and
- specific requirements for their area of work.

Information will be shared in a range of ways including via discussion (including face to face and verbal) and different forms of written communication (including emails, letters and reports). Information should always be shared in a secure and confidential manner. For example: using secure email; conducting telephone or professional conversations in a confidential environment etc.

The detail of information disclosed and shared and the rationale for any decision making relating to information sharing (including decisions not to share); should be clearly and accurately recorded.

In some circumstances, some information about a third party may have to be redacted or only partially shared.

Any information that is verbally shared outside of an organisation should be confirmed and securely sent in a written form and include a rationale for sharing the information. This should be sent in a timely manner. This approach ensures clear and defensible safeguarding practice.

Information which has been received must only be used for the purposes of safeguarding or other legal tasks (such as to prevent and detect crime). If further guidance is required, contact may need to be made with legal or information governance experts in individual organisations.

Please see [The Safeguarding Process in Shropshire](#) for more specific information management and sharing responsibilities when a safeguarding concern is raised with the Local Authority.

### Escalation

When there is disagreement between partner agencies about sharing information, which is pertinent to safeguarding, the reasons for not sharing must be clearly stated in writing.

The Care and Support Statutory Guidance (2016) states:

*“Where a local authority or partner requests co-operation from each other in relation to a particular individual case, the local authority or relevant partner must co-operate as requested, unless doing so would be incompatible with their own duties or have an adverse effect on the exercise of their functions (15.26)”.*

**Disagreements should NEVER compromise the organisation’s or individual’s responsibility to take action to safeguard a person.**

Every effort should be made to resolve the disagreement at the earliest opportunity. In the exceptional case where agreement cannot be reached, the Independent Chair of the Keeping Adult Safe in Shropshire Board may need to be asked to arbitrate and where necessary, challenge and make recommendations.

## Appendices

### Appendix 1: Seven golden rules for Information Sharing (HM Government:2018)

**1) Remember that the General Data Protection Regulation (GDPR), Data Protection Act 2018 and human rights law are not barriers to justified information sharing**, but provide a framework to ensure that personal information about living individuals 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** from other practitioners, or your information governance lead, if you are in any doubt about sharing the information concerned, without disclosing the identity of the individual where possible.

**4) Where possible, share information with consent, and where possible, respect the wishes of those who do not consent to having their information shared.** Under the GDPR and Data Protection Act 2018 you may share information without consent if, in your judgement, there is a lawful basis to do so, such as where safety may be at risk. You will need to base your judgement on the facts of the case. When you are sharing or requesting personal information from someone, be clear of the basis upon which you are doing so. Where you do not have consent, be mindful that an individual might not expect information to be shared.

**5) Consider safety and wellbeing:** base your information-sharing decisions on considerations of the safety and wellbeing of the person and others who may be affected by their actions.

**6) Necessary, proportionate, relevant, adequate, 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 individuals who need to have it, is accurate and up to-date, is shared in a timely fashion, and is shared securely (see principles)

**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.  
(HM Government, 2018:4)

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