

Information Sharing Policy Updated September 2022

Definition

This Policy provides the basic guidance on Information Sharing for staff, homestays, students and families, for further details refer to the “Information sharing: Advice for practitioners providing safeguarding services” (July 2018)*.

Sharing information is vital to protect children from suffering or likely to suffer Significant Harm and for early intervention to ensure that students receive the services they require. Staff members, homestays, parents and school staff members are sometimes uncertain about when they can share information lawfully.

It is important therefore that they:

- understand and apply good practice in sharing information at an early stage as part of preventative work;
- are clear that information can be shared where they judge that a child is suffering or likely to suffer Significant Harm;
- understand what information is and is not confidential, and the need in some circumstances to make a judgement about whether confidential information can be shared without consent.

Main principles

UK Study Centre Guardianship is aiming to explain students and families what and how information will, or could be shared and why, and seek their agreement when they first approach the service.

In some circumstances, however, it will not be appropriate to seek consent before sharing information with others and/or information can be shared where consent has been refused. The exception to this is where to do so

- would place the child or others at increased risk of suffering or likely to suffer Significant Harm or
- undermine the prevention, detection or prosecution of a serious crime (i.e. any crime which

causes or is likely to cause Significant Harm to a child) including where seeking consent might lead to interference with any potential investigation.

This may be the case where making a referral to Children's Social Care Services under the Referrals Procedure.

Staff members and homestays must also share information when they are in situations where there is a statutory duty or Court Order requiring the information to be shared. In such situations, information should be shared even if consent has not been given. However, wherever possible, the individual concerned should be informed about the information to be shared, the reasons and to whom it will be disclosed.

Staff members and homestays must always consider the safety and welfare of a child when making decisions on whether to share information about the child. Where there is concern that the child may be suffering or likely to suffer Significant Harm, the child's safety and welfare must be the overriding consideration.

Staff members and homestays should, where possible, respect the wishes of children or families who do not consent to share confidential information. However, they may still share information if in their judgement there is sufficient need to override that lack of consent.

Staff members and homestays should seek advice where they are in doubt, especially where the doubt relates to a concern about possible Significant Harm to a child or serious harm to others.

Staff members and homestays should ensure that the information they share is accurate and up-to-date, necessary for the purpose for which they are sharing it, shared only with those people who need to see it, and shared securely.

Staff members and homestays should always record the reasons for their decision – whether it is to share information or not.

The Seven Golden Rules to Information Sharing

- Remember that the Data Protection Act 2018** and human rights laws are not barriers to justified information sharing but provide a framework to ensure that personal information about living individuals is shared appropriately;
- Be open and honest with the individual (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;
- Seek advice from other practitioners if you are in any doubt about sharing the information concerned, without disclosing the identity of the individual where possible;
- Share with informed 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, there is good reason to do so, such as where safety may be at risk. You will need to base your judgment on the facts of the case. When you are sharing or requesting personal information from someone, be certain of the basis upon which you are doing so. Where you have consent, be mindful that an individual might not expect information to be shared.
- Consider safety and well-being: Base your information sharing decisions on considerations of the safety and wellbeing of the individual and others who may be affected by their actions;
- 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 (Practitioners must always follow their organisation's policy on security for handling personal information);
- 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. The shared information should always be recorded in the Student's individual record.

Information Sharing Basics

The principles set out below are intended to help staff members, homestays, students and families share information between organisations. Practitioners should use their judgement when making decisions on what information to share and when and should follow organisation procedures or consult the Head of Guardianship if in doubt. The most important consideration is whether sharing information is likely to safeguard and protect a child.

1. Necessary and proportionate

When taking decisions about what information to share, you should consider how much information you need to release. The Data Protection Act 1998 requires you to consider the impact of disclosing information on the information subject and any third parties. Any information shared must be proportionate to the need and level of risk.

2. Relevant

Only information that is relevant to the purposes should be shared with those who need it. This allows others to do their job effectively and make sound decisions.

3. Adequate

Information should be adequate for its purpose. Information should be of the right quality to ensure that it can be understood and relied upon.

4. Accurate

Information should be accurate and up to date and should clearly distinguish between fact and opinion. If the information is historical then this should be explained.

5. Timely

Information should be shared in a timely fashion to reduce the risk of harm. Timeliness is key in emergency situations and it may not be appropriate to seek consent for information sharing if it could cause delays and therefore harm to a child. Practitioners should ensure that sufficient information is shared, as well as consider the urgency with which to share it.

6. Secure

Wherever possible, information should be shared in an appropriate, secure way.

7. Record

Information sharing decisions should be recorded whether or not the decision is taken to share. If the decision is to share, reasons should be cited including what information has been shared and with whom, in line with organisational procedures. If the decision is not to share, it is good practice to record the reasons for this decision and discuss them with the requester.

Confidentiality and the Public Interest

In deciding whether there is a need to share information you need to consider your legal obligations including:

- Whether the information is confidential; and
- If it is confidential, whether there is a public interest sufficient to justify sharing the information.

Not all information is confidential. Confidential information is information of some sensitivity, which is not public knowledge, and which has been shared in a relationship where the person giving the information understood that it would not be shared with others.

Confidence is only breached where the sharing of confidential information is not authorised by the person who provided it or to whom it relates. If the information was provided on the understanding that it would be shared with a limited range of people or for limited purposes, then sharing in accordance with that understanding will not be a breach of confidence. Similarly, there will not be a breach of confidence where there is explicit consent to the sharing.

Even where sharing of confidential information is not authorised, it may lawfully be shared if this can be justified in the public interest. Seeking consent should be the first option, if appropriate. Where consent cannot be obtained to the sharing of the information or is refused, or where seeking it is likely to undermine the prevention, detection or prosecution of a crime, the question of whether there is a sufficient public interest must be judged by the practitioner on the facts of each case. Therefore, where a practitioner has a concern about a child, he or she 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 harm, to promote the welfare of children or 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. The key factor in deciding whether or not to share confidential information is proportionality, i.e. whether the proposed sharing is a response in proportion to the need to protect the public 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 make a decision based on a reasonable judgement.

It is not possible to give guidance to cover every circumstance in which sharing of confidential information without consent will be justified. It is possible however to identify some circumstances in which sharing confidential information without consent will normally be justified in the public interest.

These are:

- When there is evidence that the child is suffering or likely to suffer Significant Harm; or
- Where there is reasonable cause to believe that a child may be suffering or likely to suffer Significant Harm; or
- To prevent Significant Harm arising to children including through the prevention, detection and prosecution of serious crime, i.e. any crime which causes or is likely to cause Significant Harm to a child or serious harm to an adult.

References

*Information sharing: Advice for practitioners providing safeguarding services" (July 2018):
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1062969/Information_sharing_advice_practitioners_safeguarding_services.pdf

** Data Protection Act 2018:

<https://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>