

# One Staffordshire Information Sharing Protocol

## Contents

Executive summary .....	1
1. Purpose.....	2
2. Powers .....	3
3. Partners .....	4
4. Process for Sharing.....	5
5. Review .....	11

### [Appendix A](#)

[Signatories and Designated Officers](#)

### [Appendix B](#)

[Legislation Summary](#)

### [Appendix C](#)

[Conditions of Consent](#)

### [Appendix D](#)

[Information Sharing Agreement](#)

### [Appendix E](#)

[Information Sharing Health and Social Care Data](#)

### [Appendix F](#)

[Fair Processing](#)

### [Appendix G](#)

[Individual Information Sharing Agreements](#)

### [Appendix H](#)

[Information Sharing Templates](#)

## **Executive summary**

The 'One Staffordshire Information Sharing Protocol' deals with the emerging issues surrounding information sharing between agencies and organisations that are delivering services for the social, economic and environmental wellbeing of the community.

Promoting and achieving wellbeing is only likely to be successful where organisations work together to ensure that communities; are kept safe; participate in healthy lifestyle choices; are looked after; are provided with the opportunity to succeed; are part of a thriving economy; and live in and enjoy a protected and respected built and natural environment.

The protocol has been produced by a working group made up of representatives from various public bodies whose remit has been to review existing information sharing protocols and replace them with 'One Staffordshire Information Sharing Protocol' which accurately reflects the current information sharing climate, legislative requirements and best practice.

This Protocol includes information sharing between services commissioned to deliver health and social care services within the boundaries of Staffordshire (including Stoke-on-Trent) but may also include services delivered outside of the area.

Our aim is to enable partners to co-ordinate effort, collate and exchange information to achieve joint objectives, co-ordinate resources, support one another in addressing common and locally set priorities and comply with the law.

The protocol outlines the purposes for sharing information, the powers that organisations have to share information, the role of partners and what can be expected from them, the process for sharing and scheduled review dates. The protocol alone does not provide the legal right to share information, it sets out the boundaries and guides under which sharing can occur and shows a commitment from its signatories to uphold what is required of them.

**Important - Please note that except where legally bound, projects involving regular information sharing should have a specific Information Sharing Agreement (also known as a Tier 2 agreement) which has been approved by the Designated Officer of organisations involved in the specific sharing. See section 4 for full details on sharing under the protocol.**

## 1. Purpose

1.1 Organisations throughout Staffordshire recognise that all individuals have a right to economic, social and environmental wellbeing.

1.2 Promoting and achieving wellbeing is only likely to be successful where organisations work together to ensure that communities; are kept safe by preventing crime and disorder; participate in healthy lifestyle choices and have access to health services; are protected and looked after by improving and joining up social care services; are provided with the opportunity to succeed through education, training and employment; and are part of a thriving economy where business has the ability to achieve.

1.3 Positive steps have already been taken by organisations across Staffordshire to ensure that these objectives can be met and to ensure that individuals receive the services that they require in a fast, efficient and personalised manner.

1.4 A number of multi-agency working arrangements have been put in to place throughout the County in order to allow representatives from statutory, voluntary and community sectors to work more closely with one another and to tailor the services that they provide to meet the needs and circumstances of each individual. These include but are not limited to; Community Safety Partnerships, Local Support Teams, Multi-Agency Safeguarding Hubs, Multi-Agency Risk Assessment Conferences, Multi-Agency Public Protection Arrangements and Children and Adults Safeguarding Boards. Sharing information between agencies is vital to the delivery of high quality, cost effective and seamless public services.

1.5 All authorities, bodies, organisations and groups will hereafter be referred to as Partners.

1.6 Persons signing the Protocol on behalf of Partners will be referred to as Signatories.

1.7 All Partners to this Protocol are committed to the partnership approach in dealing with community issues. This document will provide a robust framework for the exchange of information to support economic, social and environmental wellbeing and enable Partners to:

- a) co-ordinate effort to deal with crime and disorder and to support health and well-being, social care and education;
- b) collate and exchange relevant information to achieve joint objectives in line with government initiatives and public expectations;
- c) co-ordinate resources in respect of the same issue – joint case management;
- d) support Partners in addressing common and locally set priorities; and
- e) comply with the law.

1.8 The Protocol provides the basis upon which co-operating Partners will facilitate and govern the lawful sharing of information to ensure that agencies can work together to:

- prevent crime and disorder, bullying, discrimination and neglect in all sections of our communities,
- make our communities safer and provide support to the victims of crime,
- offer joined up health and social care services,
- identify and provide support for vulnerability in the community,

- ensure that access is available to education and training,
- allow greater individual choice of service access by community members.

1.9 The Protocol provides good practice for the sharing of information between Partners in line with relevant legislation and is an enhancement to other established working practices. It is not intended to restrict the exchange of information and intelligence between operational staff employed by the Partners. They will continue to interact by face to face, telephone and electronically in order to carry out their operational duties and responsibilities. Such collaborative working will usually require documented procedures in addition to this Protocol. This will ensure that such information is exchanged in a lawful manner. Documented procedures covering these circumstances must not circumvent this Protocol.

1.10 Partners will provide public support for this Protocol. The Protocol will be published so that the public can see that information is being shared for their benefit in an appropriate and lawful way.

1.11 This Protocol complies with the Management of Police Information (MOPI) standards for information sharing, the Information Commissioner's Office (ICO) data sharing code of practice and the principles set out in the Caldicott review.

## **2. Powers**

2.1 There is no general statutory power to share information however some statutes provide public bodies with an express power to share, i.e. Section 115 of the Crime and Disorder Act 1998 which permits sharing to help prevent or detect crime and Section 8 of the National Audit Act 1983 which imposes a legal obligation on public bodies to provide relevant information to the National Audit Office.

2.2 Where there is no express statutory power to share information it may be possible to imply such a power from other duties and powers which public bodies have, i.e. Section 1 of the Localism Act 2011 provides a new power available to local authorities allowing them to do "anything that individuals generally may do".

2.3 Regardless as to whether an organisation has express or implied statutory powers, all personal data will be exchanged only as allowed by current law and only where justified, necessary and proportionate to meet the agreed objectives of this Protocol. In particular, organisations and employees will comply with:

- Data Protection Act 2018
- General Data Protection Regulation
- The Human Rights Act 1998
- The Common Law Duty of Confidentiality
- Data (Use and Access) Act 2025

2.4 The legislation above has been detailed further in [Appendix B](#) along with additional legislation which may need to be considered and referred to when sharing specific information.

### **3. Partners**

3.1 The signing of this Protocol by each Signatory reflects their organisations commitment to adopting and complying with the Protocol requirements.

3.2 Each party remains responsible for the data they hold and process (once safely received) from the other parties as data controller of that information. Specific data controller and processor arrangements must be set out in Tier 2 agreements.

3.3 This Protocol is signed by all statutory authorities and will govern the sharing of information between them. Other agencies and bodies that have a role in delivering the priorities identified by the One Staffordshire Information Sharing Protocol are also invited to sign and comply with this Protocol where required. Other agencies and bodies may include organisations outside of the public sector. The onus is on the agency to inform their staff of their agency's responsibilities, to monitor and take responsibility for compliance with the protocol.

3.4 Any organisation that requests to share information but are not yet Signatories to this Protocol will be required to become Signatories.

3.5 All Partners to this Protocol are independent Data Controllers (as defined by the Data Protection legislation). It is a legal requirement that any Signatory organisation to this Protocol must have paid the appropriate fee to the Information Commissioner.

3.6 It will be the responsibility of the Signatory to ensure that:

- Realistic expectations prevail from the outset
- Ethical and professional standards are maintained
- A mechanism exists by which the flow of information can be controlled, and confidentiality maintained in addition to ensuring that significant decisions made are recorded and documented
- Staff have appropriate skills and training
- Adequate arrangements exist within their organisation to test adherence to the Protocol
- Operational coordination in support of shared objectives is supported
- The legitimate and justifiable exchange of information is encouraged to an extent which is compatible with rights under the Human Rights Act 1998 and its supporting principles such as proportionality and subsidiary

3.7 Each Signatory will nominate a Designated Liaison Officer to facilitate the sharing of information between Partners. The Designated Liaison Officer will:

- act as a single point of contact for information requests
- understand the relevant legislation and be able to champion information sharing within their own organisations
- work with other Designated Officers to establish the best ways to share information
- act as the first point of contact for any technical problems with sharing the information that may arise and, where necessary, report findings to Partners
- initiate internal investigations where the Protocol has not been adhered to
- approve and maintain a record of any individual Information Sharing Agreements entered into under this Protocol

3.8 Any Signatory may terminate their involvement in this arrangement, with one or more Signatories, by the service of one month's written notice on the Signatories. The Signatory should inform the managing agent that this has been done.

3.9 Any organisation wishing to become a Signatory to this Protocol may obtain a copy online at [One Staffordshire Information Sharing](#). Compliance with the protocol must be signified by completing and returning an acceptance form to Staffordshire County Council at: [infogov@staffordshire.gov.uk](mailto:infogov@staffordshire.gov.uk) who will make the necessary amendments and inform other organisations of the updates. Becoming a Partner to this Protocol does not infer any right to exchange information with another Partner.

3.10 A full list of Signatories and Designated Officers is attached at [Appendix A](#).

#### **4. Process for Sharing**

4.1 Personal data will only be shared where it is necessary, proportionate and justified to do so and on a 'need to know' basis. Partners will always consider alternatives to sharing personal data in the first instance, e.g. statistical, anonymised or pseudonymised information.

4.2 This Protocol allows for the sharing of personalised and depersonalised information in the following circumstances. 4.34 states policies and procedures should be in place to support and ensure good practice.

- a. Written exchange of information between Partners
  - delivered and/or received in person
  - at formal meetings/case conferences, where minutes or notes are produced or actions are recorded
  - by recorded/special post
  - by secure fax
  - by electronic means, including secure email
  - shared via secure and encrypted portals
- b. Verbal exchange of information between Partners
  - in person
  - at formal meetings/case conferences, where minutes or notes are produced or actions are recorded
  - over the telephone

4.3 This Protocol does not give license for unrestricted access to information another Partner may hold. It provides the parameters for the safe and secure sharing of information for a justifiable 'need to know'.

4.4 Each Partner must take responsibility for its own decisions to share or not to share as well as what information is appropriate to share. Partners may choose to carry out risk assessments and/or data protection impact assessments (DPIA) to aid their decision. In addition to this, Partners will take into account the framework of the legislative background ([see Appendix B](#)), regional agreements, guidance in relation to their specific service area and their own professional judgement.

Where a Partner to this Protocol chooses not to share information, they must provide a full and clear written explanation of the reasons the sharing request has been refused, to the requesting Partner.

4.5 Information shared under this Protocol will only be used for the specific purposes for which it was disclosed. Partners will always retain ownership of the personal information disclosed to another Partner, therefore any Partner wishing to use the information for another purpose or who may wish to disclose that information to any other person (other than the data subject or where there are legal grounds to do so) must:

- Inform the provider of their intention to use the information for a different purpose
- Specify the legal basis permitting such processing
- Obtain explicit consent from the individual(s) concerned and provide a fair processing notice before processing such information

If the originator of the personal information considers that the purpose for which the information is proposed to be used is likely to be detrimental to their agency, or the individual(s) whose personal information it is proposed to use object, then that information should not be used for the proposed purpose.

4.6 Agencies wishing to use personal information that has been provided under this Protocol for research or statistical purposes should ensure that policies and procedures are in place to guarantee that such personal information is anonymised.

4.7 In requesting disclosure of personal information from another Partner to this Protocol, those concerned will respect this responsibility and not seek to override the procedures which each agency has in place to ensure that information is not disclosed illegally or inappropriately.

It is acceptable for a providing agency to obtain further details from the requesting organisation in order to satisfy them that the agency has the ability to appropriately handle the information.

4.8 The extent of disclosure must be restricted to only that personal information which is necessary to enable the Partner, or an individual or group acting on their behalf, to achieve its objectives outlined in [section 1](#) of the Protocol (purpose). The degree of disclosure that takes place must be necessary, proportionate and justified.

4.9 Except where legally bound, projects involving regular information sharing should have a specific Information Sharing Agreement (also known as a Tier 2 agreement) which has been approved by the Designated Officer of organisations involved in the specific sharing. The provisions which will be relevant to all agreements can be found at [Appendix D](#) and [Appendix E](#), an 'Information Sharing Agreement template' can be found in [Appendix H](#).

4.10 Where information is disclosed, received or requested all Partners will put in place procedures to record the following information:

- The date the information was requested
- Details of the person(s) making the request
- Details of the information requested
- The personal details of the person(s) who is the subject of the information (refer to the individual Information Sharing Agreement where there is a bulk transfer)
- Any restrictions placed on the information that has been given e.g. 'not to be disclosed to the service user'.
- Details of the person authorising the disclosure (where applicable)
- The grounds for disclosing (where applicable)
- Whether consent has been sought and received
- Details of the information disclosed/received (where applicable)

- The date the information was disclosed/received (where applicable)

A 'Decision to Disclose form' can be found in [Appendix H](#).

4.11 Where information is shared at meetings made up of organisations that may not be Signatories to the Protocol it is good practice to sign a Confidentiality Agreement. This may be considered good practice even for those members of the group that are Signatories to the Protocol. This will prohibit any unauthorised secondary disclosure of personal information. Decisions on disclosures reached at meetings should be recorded and documented in line with [paragraph 4.10](#).

Care should be taken not to include confidential personal information in minutes of meetings where copies of those minutes cannot be subject to the strict controls set out in this Protocol.

A 'Confidentiality Agreement template' can be found in [Appendix H](#).

4.12 Appropriate sharing of information shall be dealt with within agreed timescales. In the event of failure to agree on timescale, sharing shall take place as soon as practicable.

4.13 All Partners will ensure that the requirements for fair processing are met. Further details about fair processing are included at [Appendix E](#) and a 'Fair Processing Notice template' can be found in [Appendix H](#).

4.14 Providers of information will take reasonable steps to ensure that information shared will be accurate and up to date.

4.15 It is the responsibility of the person using information to ensure that it is fair, transparent, relevant and accurate. Reliance on the currency of that data will be a matter for the receiving party and if there has been any delay between receipt and use of information, the current accuracy of the information must be verified. Each supplying Partner accepts and understands that it may be requested to confirm changes to previously released information. The use of out of date information can have serious consequences.

4.16 Where information is discovered to be inaccurate or inadequate for the purpose, the receiving party agrees to notify the data owner. The data owner will be responsible for correcting the data and notifying all other recipients who must ensure that the correction is made or the inaccurate records are destroyed. After the correction is made or the records destroyed the data owner will be informed in writing.

4.17 As far as reasonably practicable all Partners will ensure that information shared will be recorded in a compatible format. Partners shall endeavour to adhere to the supplying Partner's security markings wherever possible.

4.18 The supplying Partner will ensure that the information is of good enough quality for the intended purpose before the information is shared. Partners agree to cooperate to ensure that all Partners meet agreed quality standards where appropriate.

4.19 Partners will ensure that they have a policy in place for the review and cleaning of data in accordance with the Data Protection Principles. In addition Partners will take into account any internal codes of practice, information security policy or sector guidance.

4.20 All Partners will put policies and procedures in place governing storage limitation, ensuring the retention and destruction of records containing personal information which is retained within manual and/or electronic systems.

4.21 Partners supplying information will specify the retention period relevant to the information supplied and whether the information will be deleted or returned to the supplier in the individual Information Sharing Agreement.

4.22 Retention of personal data must be for the minimum period required to achieve the purpose identified when requesting the information. After such period it is the responsibility of the information holder to either return the information to the supplier or to destroy the information securely. Partners will ensure that any out-of-date information that still needs to be retained, but is not permanently deleted, is safely archived or put "off-line".

4.23 Records of disclosure must be retained for as long as they remain relevant and in any case, for a minimum of six years.

4.24 All Partners will ensure that their staff and officers have adequate knowledge, training and skills to enable them to share information legally, comply with any professional codes of practice and local policies and/or procedures, including this Protocol. Staff training should take place during induction period, before any access to personal data is granted and a refresher should be undertaken at least annually. Staff who are properly trained will understand their duty to share information. Issues that can arise if they do not take proper care of personal confidential information and understand what they are expected to do when:

- Sharing with other members of their team;
- They need to ask an individual for permission to share their data;
- They need to transfer personal data securely;
- An individual objects to the ways their personal data is being used or shared;
- In regards to health and social care, they are asked to share it with someone outside the health care team for an in-direct care purpose;
- They can share information without an individual's consent or override their objection.

4.25 All Partners will ensure that their staff and officers who are involved in the information sharing process are aware of, and comply with, their responsibilities and obligations with regard to:

- The confidentiality of personal information
- The commitment of the relevant Partner organisation to only share information legally and within the terms of an agreed individual Information Sharing Agreement
- Information will only be shared where necessary, justified and proportionate, on a need to know basis only
- Disclosure of personal information which cannot be justified, whether inadvertently or intentionally, may be subject to disciplinary action

4.26 Partners will ensure staff and officers who are authorised to make disclosures of personal information, will clearly state whether the information that is being supplied is fact, opinion or a combination of the two.

4.27 All Partners will require their staff, officers and any other agency or contractor who have access to, or are likely to come into contact with, personal information will be required to sign a Confidentiality Agreement or include the necessary confidentiality clause, as part of the terms and conditions of employment and/or contract.

4.28 Each party shall ensure that any processor, agent or subcontractor instructed by them to process information to which this agreement relates, will not be instructed without the written permission of the sender of that information. A contract must be in place. The instructing party must also provide a plan of the technical and organisational means the third party have adopted to prevent unauthorised or unlawful processing or accidental loss or destruction of the information (to include confirmation that these processes have been successfully implemented by the third party and will continue to be monitored by the party instructing them).

4.29 All Partners will ensure that they have appropriate policies and procedures in place to deal with requests from data subjects in relation to their personal data, including the provision of advice and assistance to individuals wishing to make a request. Information that has been provided by another agency may be disclosed to the data subject without the need for obtaining consent with the following exceptions:

- Where the Partner agency has expressly stated they do not wish the information to be disclosed without being consulted first
- The information contains medical details
- The information is of a legal nature

4.30 Requests under the Freedom of Information Act 2000 which may involve policy documents and decision making processes in relation to this Protocol should be dealt with as per [paragraph 4.25](#). There are no limits placed on the public availability of this Protocol and associated appendices and organisations are encouraged to include this Protocol on their Publication Scheme.

4.31 Each Partner is responsible for complaints, queries and objections regarding information sharing, subject access and freedom of information and environmental information regulation (EIR) requests directed to their organisation in line with relevant Acts or policies in practice. Each Partner will ensure that they have effective procedures for dealing with complaints from individuals in relation to the use and disclosure of personal information. All Partners who are party to the information sharing will provide cooperation and assistance in order to resolve the complaint.

4.32 In relation to the sharing of health and social care data where a party is subject to the Data Security and Protection (DSP) Toolkit each party shall commit to achieving at least Satisfactory or Satisfactory with Improvement plan under an annual DSP Toolkit submission. See Appendix E for specific detail regarding sharing health and social data.

Note: Under 'Organisation' in Appendix A the DSP Toolkit reference is displayed as evidence of participation; however, it is the responsibility of organisations participating in sharing to check that the Toolkit submission is the latest version and rated satisfactory or 'satisfactory with improvement plan'. See [paragraph 4.32](#) and [Appendix E](#) for further details.

4.33 All Partners will put in place procedures governing the integrity and secure storage of all personal information retained within their manual or electronic systems to comply with the security principle of Data Protection legislation, taking into consideration both technical and organisational measures. Security requirements will include:

- Appropriate security management (e.g. policies, procedures, staff training)
- Appropriate access controls to electronic and manual systems
- Appropriate physical and environmental security to buildings and other hardware
- Appropriate back up and disaster recovery systems

4.34 All Partners will ensure the secure exchange of information. Partners will put in place policies and procedures that govern the secure transfer of personal information both internally and externally. Such policies and procedures must cover:

- Secure internal and external postal arrangements
- Verbally, face to face and telephone
- Secure facsimiles
- Electronic mail (secure network or encryption to minimum standards)
- Secure electronic network transfer

The method of transfer and subsequent security measures must be included on any individual Information Sharing Agreement (see Appendix D). When sharing Police information it would be expected that Baseline Security Controls as outlined in ISO27001/2 should be followed and/or the NCSC Cyber Essentials.

4.35 All Partners will have appropriate measures in place to investigate and deal with inappropriate or unauthorised access to, or use of, personal data whether accidental or intentional. If it is established that personal information has been shared inappropriately under this Protocol, the Partner making the discovery shall inform the information provider of the details.

Following this, the information provider shall:

- Take steps to investigate the cause of the disclosure
- Where appropriate, take disciplinary action against the person(s) responsible
- Take appropriate steps to avoid a repetition

The original provider will also assess any potential implications for the individual whose information has been compromised and if necessary:

- Notify the individual concerned
- Advise the individual of their rights
- Provide the individual with the appropriate support

4.36 Where a serious breach has occurred, it is mandatory for the provider to notify the Information Commissioner's Office within 72 hours and, where applicable, report on the online DSP Toolkit IG Incident Reporting Tool. It is the responsibility of the party managing an incident to investigate, report and escalate them as appropriate to the necessary regulatory bodies. Each partner must have processes in place to ensure incidents are identified and reported where applicable under Data Protection legislation.

4.37 If any partner wishes to utilise Artificial Intelligence (AI) for data sharing purposes (for example, using automated AI transcription tools at meetings or conferences) they should ensure that this is clearly outlined within an information sharing agreement, along with details of how the use of AI will meet the principles of the Data Protection

Legislation, as well as the principles laid out within the protocol. Partners should not use AI tools to process information shared with other partners without gaining the approval of the other partner(s) they are sharing with. Partners should complete a Data Protection Impact Assessment for initiatives involving the use of AI. The ICO has guidance to the use of AI, here: [AI and data protection risk toolkit | ICO](#)

4.38 Data shared under the One Staffordshire Information Sharing protocol should not transfer Shared Personal Data to any country or territory outside the United Kingdom or to any international organisation (as defined in the UK GDPR) without the Disclosing Party's prior written consent and knowledge. Any transfer of data outside the UK must involve adequate protections and safeguards as defined in Articles 44 and 45 of the UK GDPR. Any international transfers must follow the ICO guidance: [A guide to international transfers | ICO](#)

## **5. Review**

5.1 Responsibility for maintenance of this Agreement lies with the Data Protection Officer (DPO) at Staffordshire County Council.

5.2 Review of this Protocol will be on a 12 monthly basis via email consultation with Signatories of the Protocol.

5.3 A relevant Partner can request an extraordinary review at any time where a joint discussion or decision is necessary to address local service developments.

5.4 Any Partner may make suggestions for amendments to the Protocol at any time. Unless urgent, amendments will be made on an annual basis. Requests for amendments should be made to the Information Governance Unit at Staffordshire County Council.

5.5 Suggested amendments may be discussed at any appropriate forums. This will enable Partners to exchange views prior to changes being made.

5.6 Information Governance at Staffordshire County Council will retain master copies of the Protocol, together with a list of current Signatories and will retain responsibility for co-ordination of the annual review.

5.7 Any review undertaken will take into account the following issues:

- That the contact list is current and up to date (as far as reasonably practicable)
- That the Protocol is still useful and fit for purpose
- That any emerging issues have been identified and if the information sharing is having the desired effect
- That the protocol reflects up to date legislation

5.8 If any party to this Agreement believes that any other Signatory is acting in breach of the Agreement the Designated Officers of the Partners directly responsible will discuss the issue and attempt to resolve it. If no solution can be found any agency may withdraw from this Agreement and cease to provide data until an acceptable framework for sharing can be established.

5.9 This Protocol will remain current until further notice. This Protocol can be terminated by mutual agreement at any time (see paragraph 3.8 ).

## Appendix A

### Signatories and Designated Officers

\*DSP Toolkit code only required for health and social care information sharing. For more information see paragraph 4.32 and Appendix E within Protocol.

Organisation	DSP Toolkit Org Code*	Name of Signatory	Designated Officer(s)
Accord Housing Association Ltd 178 Birmingham Road West Bromwich West Midlands B70 6QG	A5 CV	Di Stirling-Chow Assistant Director of Care Services	Jan Paterson Head of Service – Older People North 01952 616011 / 07776 161180 <a href="mailto:Jan.paterson@accordgroup.org.uk">Jan.paterson@accordgroup.org.uk</a>
Action for Children Staffordshire Shared Care Church Street Chesterton Newcastle-under-Lyme ST5 7HJ		Jackie Topham Registered Manager	Caroline Leahy Cluster Service Manager 07780603449 <a href="mailto:caroline.leahy@actionforchildren.org.uk">caroline.leahy@actionforchildren.org.uk</a>
ADVOC8 30-32 Copeland Street Stoke-on-Trent Staffordshire ST4 1PR		Dann Partridge Director 07787378147 <a href="mailto:dann.partridge@advoc8.co.uk">dann.partridge@advoc8.co.uk</a>	Daniel Evans COO 07854256134 <a href="mailto:Daniel.evans@advoc8.co.uk">Daniel.evans@advoc8.co.uk</a>
Adullam Homes		Phil Gardiner	Jenny Morgan

Walter Moore House 34 Dudley Street West Bromwich B70 9LS		Quality Assurance Manager and DPO	Head of Support Services 07917550504 <a href="mailto:jmorgan@adullam.org.uk">jmorgan@adullam.org.uk</a>
Advance Housing & Support 60 Ironstone Road Chase Terrace Burntwood Staffordshire WS7 1LY		Don Isaacs Services Manager	Don Isaacs Services Manager 01543 271212 <a href="mailto:don.isaacs@advanceuk.org">don.isaacs@advanceuk.org</a>
Affinity Sutton Level 6 6 More London Place Tooley Street SE1 2DA		Stephen Rawlinson Neighbourhood Housing Manager	Michele Elliott Neighbourhood Housing Officer 07715809274 <a href="mailto:michele.elliott@affinitysutton.com">michele.elliott@affinitysutton.com</a>
Age UK Staffordshire The Roller Mill Teddesley Road Penkridge ST19 5BD		Carl Bennett Chief Executive	Wendy Botham Head of Operations 01785 788483 <a href="mailto:wendy.botham@ageukstaffordshire.org.uk">wendy.botham@ageukstaffordshire.org.uk</a>
All Saints CE Primary School Tatenhill Lane Rangemore Burton-on-Trent DE13 9RW		Charlene Gethin Headteacher	Charlene Gethin Headteacher 01283 712385 <a href="mailto:headteacher@allsaints-rangemore.staffs.sch.uk">headteacher@allsaints-rangemore.staffs.sch.uk</a>
Alleynes Academy Oulton Road Stone ST15 8DT		Mr Timothy Tweats Deputy Headteacher	Mr Craig Bailey Assistant Headteacher/SENCO 01785 337400 <a href="mailto:c.bailey@alleynes.staffs.sch.uk">c.bailey@alleynes.staffs.sch.uk</a>
Alice (relief of poverty and advancement of community)		Heather Sheldon Chief Executive Officer	Heather Sheldon Chief Executive Officer 01782 614838

Unit 19 Whieldon Road Industrial Estate Fenton Stoke-on-Trent ST4 4JP			<a href="mailto:Heather.sheldon@alicecharity.org">Heather.sheldon@alicecharity.org</a>
Alpha Learning Staffordshire Gitana Street Hanley Stoke-on-Trent Staffordshire ST1 1DY		Lindon Newbon Company Director	Nadine Wedgwood Designated Safeguarding Lead 01782 212807 nadine@alphalearningstaffordshire.co.uk
Amington Heath Primary School Quince Amington Tamworth B77 4EN		Oliver Fordham Headteacher	Annette Burns Deputy Headteacher 01827 475161 <a href="mailto:deputyhead@amingtonheath.staffs.sch.uk">deputyhead@amingtonheath.staffs.sch.uk</a>
Anglesey Primary Academy (Academies Enterprise Trust) Clarence Street Burton-on-Trent DE14 3LG		Lynsey Hedley Headteacher	Lynsey Hedley Headteacher <a href="mailto:lhedley@angleseyprimaryacademy.org">lhedley@angleseyprimaryacademy.org</a>
Anker Moor Primary School Rene Road Bolehall Tamworth Staffordshire B77 3NW		Richard Burns Headteacher	Ella Price Deputy Headteacher 01827 475730 <a href="mailto:ella.price80@yahoo.com">ella.price80@yahoo.com</a>
Ark Housing Trust 3 Bath Road Buxton SK17 6HH		Jon Parsons Director	Karen Johnson Support Worker 07394 374525 <a href="mailto:k.johnson@arkhousingtrust.co.uk">k.johnson@arkhousingtrust.co.uk</a>
Ashcroft Infant and Nursery School		Jayne Fellows Headteacher	Sam Bowyer Office Manager

Mildenhall Tamworth B79 8RU			01827 213760 <a href="mailto:office@ashcroft.staffs.sch.uk">office@ashcroft.staffs.sch.uk</a>
Aspire Housing Kingsley The Brampton Newcastle-under-Lyme ST5 0QW		Nina Johnson Compliance Delivery Manager	Stella Redford Data Protection Officer 07788 313456 <a href="mailto:dpo@aspirehousing.co.uk">dpo@aspirehousing.co.uk</a>
Base 25 Castle House Wheelers Fold Wolverhampton WV1 1HN		Janet Meredith Project Co-Ordinator	Jennie Watton BRFC Co-Ordinator 01902 572040 <a href="mailto:jennie.watton@base25.org">jennie.watton@base25.org</a>
The BAC O'Connor Centre Burton Addiction Centre 126 Station Street Burton-on-Trent Staffordshire DE14 1BX		Kendra Gray Chief Executive Officer	Donna Meredith Wood Operations Director 01283 537280 <a href="mailto:donna.meredithwood@baca-ndoconnor.co.uk">donna.meredithwood@baca-ndoconnor.co.uk</a>
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## Appendix B

### **Legislation Summary and Guidance**

#### **Introduction**

Legislation, under which most public sector agencies operate, defines the role, responsibility and power of the agency to enable it to carry out a particular function.

In many instances legislation tends to use broad or vague statements when it comes to sharing personal information i.e. ‘the agency is required to communicate...’, or ‘will co-operate with...’, without actually specifying exactly how this may be done. This is because legislation that specifically deals with the use of personal information already exists; namely, the Data Protection Act and General Data Protection Regulation; in most cases links into most other legislation.

Data Protection legislation sets out to govern the collection, use, storage, destruction and protection of a living person’s personal data. It does not set out to prevent the sharing of personal information. To the contrary, provided that necessary conditions are met, sharing is perfectly legal.

Legislation covered in this appendix:

- Data Protection Act 2018
- UK General Data Protection Regulation
- Data (Use and Access Act) 2025
- Human Rights Act 1998
- Common Law Duty of Confidentiality
- Digital Economy Act 2017
- Crime and Disorder Act 1998
- The Police and Justice Act 2006
- Statutory Instruments 2007 No. 1831 the Crime and Disorder (Prescribed Information) Regulations 2007
- Statutory Instrument 2007 No. 1830 the Crime and Disorder (Formulation and Implementation of Strategy) Regulations 2007
- Anti-Social Behaviour, Crime and Policing Act 2014
- Regulation of Investigatory Powers Act 2000
- Access to Health Records Act 1990
- The Freedom of Information Act 2000
- The Local Government Act 1972
- Localism Act 2011
- Immigration and Asylum Act 1999
- Criminal Justice Act 2003
- The Children Act 1989
- The Children Act 2004
- Children (Leaving Care) Act 2000
- Protection of Children Act 1999
- Education Act 1996
- Education Act 2002
- Education (SEN) Regulations 2001
- Learning and Skills Act 2000
- National Health Service Act 1977
- Health Act 1999
- National Health Service and Community Care Act 1990
- National Health Service Act 2006
- Care Act 2015

- National Audit Act 1983
- Civil Contingencies Act 2004
- Caldicott
- Mental Capacity Act 2005 Code of Practice
- Every Child Matters (ECM) Initiative
- Safeguarding

**NB** *Staffordshire County Council is not responsible for the content of external websites linked from these following pages.*

### **Data Protection Act 2018**

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

The DPA 2018 is based on 6 principles set out in Section 86 to 91 of the Act.

1. Processing of personal data must be:

- (a) lawful, and
- (b) fair and transparent.

In order for processing of personal data to be lawful at least one of the conditions in Schedule 9 is met. In the case of sensitive processing, at least one of the conditions in Schedule 10 is also met. Section 86 also considers in determining whether the processing of personal data is fair and transparent, regard is to be had to the method by which it is obtained.

Section 86 also outlines “sensitive processing” meaning;

- (a) the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union membership;
- (b) the processing of genetic data for the purpose of uniquely identifying an individual;
- (c) the processing of biometric data for the purpose of uniquely identifying an individual;
- (d) the processing of data concerning health;
- (e) the processing of data concerning an individual’s sex life or sexual orientation;
- (f) the processing of personal data as to—
  - (i) the commission or alleged commission of an offence by an individual, or
  - (ii) proceedings for an offence committed or alleged to have been committed by an individual, the disposal of such proceedings or the sentence of a court in such proceedings.

2. The purpose for which personal data is collected on any occasion must be specified, explicit and legitimate, and personal data so collected must not be processed in a manner that is incompatible with the purpose for which it is collected.

Compatibility is subject to:

Personal data collected by a controller for one purpose may be processed for any other purpose of the controller that collected the data or any purpose of another controller provided that:

- (a) the controller is authorised by law to process the data for that purpose, and
- (b) the processing is necessary and proportionate to that other purpose.

Processing of personal data is to be regarded as compatible with the purpose for which it is collected if the processing consists of processing for archiving purposes in the public interest, or for the purposes of scientific or historical research, or for statistical purposes. There must also be regard for appropriate safeguards for the rights and freedoms of the data subject.

- 3. Personal data must be adequate, relevant and not excessive in relation to the purpose for which it is processed.
- 4. Personal data undergoing processing must be accurate and, where necessary, kept up to date.
- 5. Personal data must be kept for no longer than is necessary for the purpose for which it is processed.
- 6. Personal data must be processed in a manner that includes taking appropriate security measures as regards risks that arise from processing personal data.

### **UK General Data Protection Regulation**

[https://ec.europa.eu/commission/priorities/justice-and-fundamental-rights/data-protection/2018-reform-eu-data-protection-rules\\_en](https://ec.europa.eu/commission/priorities/justice-and-fundamental-rights/data-protection/2018-reform-eu-data-protection-rules_en)

The key principles of the UK General Data Protection Regulation (GDPR) are:

- 1. Personal Data must be processed (e.g. collected, held, disclosed) lawfully, fairly, transparently and must satisfy one of the conditions in article 6 of the Regulation. The processing of special category data is further protected in that processing must also satisfy at least one of the conditions in article 9 of the Regulation.
- 2. Personal Data shall be obtained and processed for one or more specific and lawful purpose(s) and not processed in any manner incompatible.
- 3. Personal Data shall be adequate, relevant and limited (not excessive) in relation to the specified purpose(s).
- 4. Personal Data shall be accurate and kept up to date.
- 5. Personal Data shall not be held for longer than is necessary for the purpose it was collected.

6. Processing of Personal Data must be in accordance with appropriate security, including appropriate technical and organisational measures.

Under article 5 (2) GDPR also requires Data Controllers to be responsible for and able to demonstrate compliance with the principles under article 5 (1), promoting a culture of privacy within organisations.

The first and second principles of GDPR are crucial when considering information sharing. In essence, these require that personal information should be processed lawfully, fairly and transparently and that personal information should only be used for the purpose(s) that it was originally obtained.

Articles 6 and 9 of the Regulation set out conditions that must be met before personal information can be processed lawfully, fairly and transparently. An article 6 condition must be met for all personal information and an article 9 condition must be met when processing special category information.

Article 6 specifies conditions relevant for the processing of any personal data, namely:

- The data subject has given his/her consent to the processing for one or more specific purposes; or
- The processing is necessary for the performance of a contract to which the data subject is party, or for the taking of steps at the request of the data subject prior to entering into a contract; or
- The processing is necessary for compliance with any legal obligation to which the data controller is subject; or
- The processing is necessary to protect the vital interests of the data subject or another natural person where consent cannot be sought physically or legally; or
- The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller; or
- The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party, or parties, to whom the data is disclosed, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

It is important to highlight, however, the final condition above does not apply to processing that is carried out by public authorities in the performance of their standard and statutory tasks.

Article 9 specifies additional conditions relevant for the processing of special category data, namely:

The data subject has given his/her explicit consent for one or more specified purposes; or

- Processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment obligations; or
- Processing is necessary to protect the vital interests of the data subject or another natural person where consent cannot be given by or on behalf of the individual (physically or legally incapable of giving consent); or
- Processing is carried out in the course of legitimate activities with appropriate safeguards by a foundation association or any other not-for-profit body with a political, philosophical, religious or trade union aim; or
- Information already publicly released by the individual; or

- Processing necessary for the establishment, exercise or defence of legal claims; or
- Processing necessary for reasons of substantial public reason; or
- Processing necessary for the purposes of preventative or occupational medicine; or
- Processing necessary for reasons of public interest in the area of public health.

Special category data, as defined by the Regulation, includes information concerning a person's physical or mental health; sexuality; ethnicity or racial origin; philosophical beliefs; political opinion; trade union membership; genetic and biometrics.

Article 44 sets out that personal data should not be transferred to a Third Country without adequate protection as outlined by article 45. A Privacy Seal is required for countries outside of the EEA. Conditions (within Chapter 5 of the Regulation) must be met with to ensure compliance. The following should be taken into account:

- a) Rule of law
  - Respect for human rights and freedoms
  - Relevant legislation
- b) Independent supervisory authorities
- c) International commitments

In order for there to be no misunderstanding on anyone's part it is always advisable for the 'collector' of the information to ensure that the data subject is made fully aware of why the information is required, what it will be used for, who will have access to it and what their rights are. If appropriate, seek the fully informed consent of the individual concerned before sharing that information.

The Regulation requires Data Controllers to provide a distinct set of information to a data subject when their data is collected. The following should be provided within a Privacy Notice as part of a controllers fair processing obligations:

- The identity and contact details of the controller, and if applicable the representative
- Contact details of the Data Protection Officer (DPO)
- Purposes of the processing and the legal basis
- If applicable the legitimate interests pursued by the controller
- Recipients of the data, if applicable
- Whether the controller intends to transfer the data to a Third Country and if so what safeguards will be put in place

It should also be considered that the following is provided:

- The retention period of the data
- Existence of the data subject rights, including the right to access and the right to withdraw consent where applicable
- Information regarding the right to lodge a complaint with the Information Commissioners Office
- Whether the provision of personal data is a statutory or contractual requirement
- If there is any existence of automated decision making, including profiling.

The Regulation gives individuals specific rights in respect of their own personal data held by others, namely the right to:

- Access their information (subject access request)
- Rectify incomplete or inaccurate data

- Erasure (otherwise known as the right to be forgotten)
- Restrict processing
- Data portability
- Object to processing
- Be informed and not subject to decisions solely on automated processing
- Take action for compensation

The right of access gives an individual the right to access the information held about themselves, irrespective of when the information was recorded or how it is stored (manual or electronic). Disclosure of information held on an individual's record that identifies, or has been provided by, a third party is subject to certain restrictions.

## **Data (Use and Access) Act 2025**

<https://www.legislation.gov.uk/ukpga/2025/18/contents>

The DUAA, which received Royal Assent on 19 June 2025, introduces targeted reforms to the UK's data protection framework. It does not replace the UK GDPR, the Data Protection Act 2018, or the Privacy and Electronic Communications Regulations (PECR), but amends them. Certain changes are of particular note for signatories:

### 1. New 'Recognised Legitimate Interests' Lawful Basis

The act introduces a seventh lawful basis for processing personal data: recognised legitimate interests. This differs from the traditional "legitimate interests" basis under UK GDPR by removing the need for a balancing test (Legitimate Interests Assessment) in specific scenarios:

- Disclosures to public bodies for public task performance.
- Safeguarding vulnerable individuals, including children.
- Crime prevention and investigation.
- National security, public security, and defence.
- Emergency response, as defined under the Civil Contingencies Act 2004.

This change simplifies compliance for organisations, especially those in the private and third sectors working with public bodies, by allowing data sharing based on confirmation from the public body that the data is needed for its task. However, it should be noted that public bodies can't rely on recognised legitimate interest if they want to use the personal information when performing their tasks – instead they should rely on other more suitable lawful bases such as Public Task.

### 2. Data Protection Complaints

The act introduces a new statutory right for individuals to complain directly to data controllers before escalating to the ICO.

- Controllers must acknowledge complaints within 30 days and respond without undue delay.
- Organisations must implement formal complaint-handling procedures, including multiple submission channels (e.g. online forms, email, phone).
- This change shifts the burden of initial resolution from the regulator to the organisation, increasing the need for robust internal governance; including around data sharing.

### 3. Transfers outside the UK

The Data Use and Access Act 2025 makes it easier for UK organisations to send personal data to other countries by replacing the old, strict rules with a new “data protection test.” Instead of proving that the other country’s laws are almost identical to the UK’s, organisations just need to show that the data will still be reasonably protected. Further guidance is expected from the ICO.

## Human Rights Act 1998

<http://www.legislation.gov.uk/ukpga/1998/42/schedule/1>

Article 8(1) of the European Convention on Human Rights (given effect via the Human Rights Act 1998), provides that “everyone has the right to respect for his private and family life, his home and his correspondence.” This is, however, a qualified right i.e. there are specified grounds upon which it may be legitimate for authorities to infringe or limit those rights.

Article 8(2) of the European Convention on Human Rights provides “there shall be no interference by a public authority with the exercise of this right except 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 well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

In the event of a claim arising from the Act that an organisation has acted in a way which is incompatible with the Convention rights, a key factor will be whether the organisation can show, in relation to its decision(s), to have taken a particular course of action:

- That it has taken these rights into account;
- That it considered whether any breach might result, directly or indirectly, from the action, or lack of action;
- If there was the possibility of a breach, whether the particular rights which might be breached were absolute rights or qualified rights;
- (If qualified rights) Whether the organisation has proceeded in the way mentioned below.

*“Evidence of the undertaking of a ‘proportionality test’, weighing the balance of the individual rights to respect for their privacy, versus other statutory responsibilities e.g. protection of others from harm, will be a significant factor for an organisation needing to account for its actions in response to claims arising from the Act”.*

This protocol is designed to comply with the provisions of the Human Rights Act 1998 in respect of Article 8 the right to respect for private and family life.

## Common Law Duty of Confidentiality

<https://www.health-ni.gov.uk/articles/common-law-duty-confidentiality>

All staff working in both the public, private and the third sector should be aware that they are subject to a Common Law Duty of Confidentiality, and must abide by this.

*‘In Confidence’... Information is said to have been provided in confidence when it is reasonable to assume that the provider of that information believed that this would be*

*the case, in particular where a professional relationship may exist e.g. doctor/patient, social worker/client; lawyer/client etc.*

The duty of confidence only applies to person identifiable information and not to aggregated data derived from such information or to information that has otherwise been effectively anonymised i.e. it is not possible for anyone to link the information to a specific individual.

The duty of confidentiality requires that unless there is a statutory requirement or other legal reason to use information that has been provided in confidence, it should only be used for purposes that the subject has been informed about and/or has consented to. This duty is not absolute, but should only be overridden if the holder of the information can justify disclosure as being in the public interest (e.g. to protect others from harm).

### **Digital Economy Act 2017**

<http://www.legislation.gov.uk/ukpga/2017/30/contents/enacted>

The Digital Economy Act 2017 makes provisions about electronic communications infrastructure and services. It contains a suite of measures that will support the digital transformation of government, enabling the delivery of better public services, world-leading research and better statistics.

The Act provides public authorities with new powers to share personal information so they can deliver better support and services which are more tailored to people's needs.

Part 5 Sections 35 – details the elements of this Act which affect Information Governance and data sharing and the disclosure of information to improve public service delivery. It states that three conditions must be met. A specified person may disclose information to another for the purposes of a jointly held objective. Schedule 4 of the Act describes who a 'specified person' is and includes:

- Central Government Departments
- Local Authorities, including County and district councils, Fire and Police
- Schools and Academies
- Gas and electric Markets Authority
- Chief Land Registry
- A person providing services to a Local Authority

The objective must comply with these conditions:

1. The first condition is the improvement or targeting of a public service provided to individuals or households, or the facilitation of the provision of a benefit (whether or not financial) to individuals or households.
2. The second condition is that the objective has as its purpose the improvement of the well-being of individuals or households.

Well-being meaning:

- their physical and mental health and emotional well-being,

- the contribution made by them to society, and
  - their social and economic well-being.
3. The third condition is that the objective has as its purpose the supporting of the delivery of a specified person's functions, or the administration, monitoring or enforcement of a specified person's functions.

#### [Code of Practice covering Part 5 of the Act](#)

Part 5 of the Digital Economy Act 2017 introduces a number of new powers to share information to help make the digital delivery of government services more efficient and effective. Sections 35 to 39 (public service delivery), section 48 (debt owed to the public sector) and section 56 (fraud against the public sector) create specific gateways to share information for the purpose of improving public service delivery, and managing debt and fraud against the public sector respectively.

#### **Crime and Disorder Act 1998**

Section 115 – Disclosure of information

<http://www.legislation.gov.uk/ukpga/1998/37/section/115>

Section 17 – Duty to consider Crime and Disorder implications

<http://www.legislation.gov.uk/ukpga/1998/37/section/17>

Section 37 – Aim of the youth justice system

<http://www.legislation.gov.uk/ukpga/1998/37/section/37>

Section 39(5) – Youth offending teams

<http://www.legislation.gov.uk/ukpga/1998/37/section/39>

The Crime and Disorder Act 1998 introduces measures to reduce crime and disorder, including the introduction of local crime partnerships around local authority boundaries to formulate and implement strategies for reducing crime and disorder in the local area.

Section 115 of the Act provides that any person from a relevant organisation has the power to lawfully disclose information to the police, local authorities, probation service or health authorities (or persons acting on their behalf) where they do not otherwise have the power, but only where it is necessary and expedient, for the purposes of the Act. The purpose of the Act encompasses a wide range of measures and need not be restricted to cases where the end result is a prosecution under criminal law.

Whilst all agencies have the power to disclose, Section 115 does not impose a requirement on them to exchange information, and responsibility for the disclosure remains with the agency that holds the information. It should be noted, however, that this does not exempt the provider from the requirements of purpose limitation; ensuring data is only obtained for specified purpose and not processed in any manner incompatible.

It is recognised that the power under Section 115 of the Crime and Disorder Act can only be used to disclose information to an individual or group which is acting in support of the local strategy to reduce crime and disorder, the Youth Justice plan or any other provision of the Acts.

Section 17 recognises that key authorities have responsibility for the provision of a wide and varied range of services to and within the community. In carrying out these functions, Section 17 places a duty on them to do all they can to reasonably prevent crime and disorder in their area.

Section 37 sets out that the principal aim of the youth justice system is to prevent offending by children and young people and requires everyone carrying out youth justice functions to have regard to that aim.

Section 39(5) sets out the statutory membership of Youth Offending Teams reflecting their responsibilities both as a criminal justice agency and a children's service. The membership consists of the following:

- at least one probation officer;
- at least one police officer;
- at least one person nominated by a health authority;
- at least one person with experience in education;
- at least one person with experience of social work in relation to children.

Youth Offending Teams have a statutory duty to coordinate the provision of youth justice services including advising courts, supervising community interventions and sentences, working with secure establishments in respect of young people serving custodial sentences and also in the latter category of a children's service.

### **The Police and Justice Act 2006**

Schedule 9 Paragraph 5 – Sharing of information

<http://www.legislation.gov.uk/ukpga/2006/48/schedule/9>

The Police and Justice Act 2006 introduces a duty on certain agencies to disclose certain sets of depersonalised information at least quarterly in electronic form to the other section 115 relevant authorities. The relevant datasets are included in Statutory Instruments 2007 No. 1831 the Crime and Disorder (Prescribed Information) Regulations 2007. The purpose of sharing this information is to enable the profiling of crime and disorder trends and patterns within the area. For this reason, in most cases, it is the record level data that is specified rather than aggregate data or statistics.

This duty only applies when the authority holds the information so it does not require the collection of any additional information. In each case, the duty applies to information relating to the partnership area as defined by the district or unitary authority area. Analysis can then take place across a number of different datasets on at least a quarterly basis.

In order to satisfy the new requirements, information covered by the new duty relating to each quarter (for example July – September) must be shared by the end of the following quarter (for example, by the end of December). This means that the relevant authorities could share all the information once per quarter; on a monthly basis; or more regularly.

The Police and Justice Act 2006 specifically excludes any personal data from this duty to disclose. This means information which can identify a living individual, either by itself or in combination with other information held, or likely to be held, by the relevant authority. Where an incident is recorded as a domestic incident, for example, sharing precise location information may, in some circumstances, be sufficient to identify a living individual. In such instances, the duty does not apply. Subject to complying with

other legal obligations such as the Common Law Duty of Confidentiality for information from ambulance callouts, the authority may still choose to disclose this information to the other Section 115 relevant authorities, who should treat it as personal data. Alternatively, the authority may choose to share less specific location information so that the dataset contains exclusively depersonalised information. In the case of ambulance callouts, this should be the outward part of the postcode only.

This was strengthened by paragraph 5 of Schedule 9 to the Police and Justice Act 2006 that introduced Section 17A of the 1998 Act which is a duty to share certain sets of depersonalised information as prescribed by the Secretary of State.

### **Statutory Instruments 2007 No. 1831 the Crime and Disorder (Prescribed Information) Regulations 2007**

Section 2, 3, 4 – Sharing of Information by Responsible Authorities

[http://webarchive.nationalarchives.gov.uk/20100413151426/opsi.gov.uk/si/si2007/uksi\\_20071831\\_en\\_1](http://webarchive.nationalarchives.gov.uk/20100413151426/opsi.gov.uk/si/si2007/uksi_20071831_en_1)

Prescribes the information types outlined above, the intervals at which such information must be disclosed and the form of such disclosure.

### **Statutory Instrument 2007 No. 1830 the Crime and Disorder (Formulation and Implementation of Strategy) Regulations 2007**

Part 4(1) and 4(2) – Information Sharing

<http://www.legislation.gov.uk/uksi/2007/1830/regulation/4/made>

Requires the drafting of an Information Sharing Protocol.

### **Anti-Social Behaviour, Crime and Policing Act 2014**

Parts 1 - 6

<http://www.legislation.gov.uk/ukpga/2014/12/contents>

In 2010, the Home Office carried out a review of the measures available to practitioners for responding to anti-social behaviour (ASB) which concluded that:

- there are too many tools and practitioners stick to the ones that they are most familiar with;
- some of the formal tools, particularly the Anti-Social Behaviour Order (or ASBO), are bureaucratic, slow and expensive, which puts people off using them;
- the growing number of people who breach their ASBO suggests the potential consequences are not deterring a persistent minority from continuing their anti-social or criminal behaviour; and
- the tools that were designed to help perpetrators deal with underlying causes of their anti-social behaviour are rarely used.

The Home Office subsequently consulted on proposals to reform the policy framework for dealing with ASB in 2011; leading to the publication of a White Paper, Putting Victims First – More Effective Responses to Anti-Social Behaviour, in 2012.

The Home Office indicated that the intention of its proposals was to "*move away from having a tool for every different problem*" to a new approach designed to ensure that

local authorities, the police and partners have "*faster, more flexible tools*" to respond to problems with "*victims at the heart of the response*".

The Anti-Social Behaviour, Crime and Policing Bill subsequently progressed through Parliament and the resulting Act received Royal Assent on 13<sup>th</sup> March 2014. The Act covers a range of matters:

- Parts 1 to 6 introduce new measures for responding to anti-social behaviour;
- Part 7 addresses dangerous dogs;
- Part 8 relates to firearms;
- Part 9 covers protection from sexual harm and violence;
- Part 10 relates to forced marriage;
- Part 11 deals with various policing matters;
- Part 12 amends the Extradition Act 2003;
- Part 13 introduces changes to criminal justice and court fees; and
- Part 14 is a general section covering amendments, commencement, etc.

### **Regulation of Investigatory Powers Act (RIPA) 2000**

Section 21 – Lawful acquisition and disclosure of communications data

<http://www.legislation.gov.uk/ukpga/2000/23/part/1/chapter/11>

The Regulation of Investigatory Powers Act 2000 primarily deals with the acquisition and disclosure of information relating to the interception of communications, the carrying out of surveillance and the use of covert human intelligence.

Sharing information within the restrictions of this Act is outside the scope of the One Staffordshire Protocol.

### **Access to Health Records Act 1990**

Section 3(1)(f) – Right of Access to health records

<http://www.legislation.gov.uk/ukpga/1990/23/section/3>

Current Data Protection legislation does not apply to information relating to a deceased person.

The Access to Health Records Act 1990 continues to provide a right of access to the health records of a deceased person made by their personal representatives and others having a claim on the deceased's estate.

In all other circumstances, disclosure of records relating to the deceased person should satisfy the Common Law Duty of Confidentiality. Whilst it is not entirely clear under law whether or not a common law duty of confidence extends to the deceased, the Department of Health and relevant professional bodies accept that there is an ethical duty to respect the confidentiality of the dead.

### **The Freedom of Information Act 2000**

Section 1 – General right of access to information held by public authorities

<http://www.legislation.gov.uk/ukpga/2000/36/section/1>

Section 19 – Publication schemes

<http://www.legislation.gov.uk/ukpga/2000/36/section/19>

The Freedom of Information Act 2000 gives the public a general right of access to information held by public authorities. The Act also requires public authorities to have an approved publication scheme, which is a means of providing access to information which an authority proactively publishes.

When responding to requests, there are procedural requirements set out in the Act which an authority must follow. There are also valid reasons for withholding information, which are known as exemptions from the right to know.

It is considered good practice to include information relating to information sharing on the publication scheme in each relevant authority. This does not mean that the information shared should necessarily be included but the reasons why information is being shared, which organisations are involved and the standards and safeguards that are in place.

### **The Local Government Act 1972**

Section 111 – Subsidiary powers of local authorities

<http://www.legislation.gov.uk/ukpga/1972/70/section/111>

Section 111 of the Act enables an authority to do anything which is intended to facilitate, or is conducive or incidental to, the discharge of any of its functions, providing that it has the specific statutory authority to carry out those functions in the first place.

Section 230 – Reports and returns

<https://www.legislation.gov.uk/ukpga/1972/70/section/230>

Section 230 requires Local Authorities to share data with government bodies, for example data on the Single Data List.

### **Localism Act 2011**

Section 1 – Local authority's general power of competence

<http://www.legislation.gov.uk/ukpga/2011/20/section/1/enacted>

The general power of competence provides a new power available to local authorities allowing them to do “anything that individuals generally may do”. There are conditions placed on the use of the Act in circumstances where what the Local Authority wants to do is prohibited by another statute.

The Information Commissioners Office has indicated that the legislation can be used as a basis to share information to identify and work with individuals and families to improve service provision and provide a more holistic approach to social care.

### **Immigration and Asylum Act 1999**

Section 20 – Supply of information to the Secretary of State

<http://www.legislation.gov.uk/ukpga/1999/33/section/20>

Section 20 provides that information may be supplied to the Secretary of State for use for immigration purposes, as follows:

- to undertake the administration of immigration controls to detect or prevent criminal offences under the Immigration Act;

- to undertake the provision of support for asylum seekers and their dependents.

### **Criminal Justice Act 2003**

Section 325 – Arrangements for assessing risks posed by certain offenders

<http://www.legislation.gov.uk/ukpga/2003/44/section/325>

Section 325 of the Act details the arrangements for assessing risk posed by different offenders:

- The “responsible authority” in relation to any area, means the chief officer of police, the local probation board and the Minister of the Crown exercising functions in relation to prisons, acting jointly.
- The responsible authority must establish arrangements for the purpose of assessing and managing the risks posed in that area by:

a) relevant sexual and violent offenders; and

b) other persons who, by reason of offences committed by them are considered by the responsible authority to be persons who may cause serious harm to the public.

- In establishing those arrangements, the responsible authority must act in co-operation with the persons identified below.
- Co-operation may include the exchange of information.

The following agencies have a duty to co-operate with these arrangements:

a) every Youth Offending Team established for an area

b) the Ministers of the Crown, exercising functions in relation to social security, child support, war pensions, employment and training

c) every Local Education Authority

d) every local housing authority or social services authority

e) every registered social landlord who provides or manages residential accommodation

f) every Health Authority or Strategic Health Authority

g) every Clinical Commissioning Group (CCG) or Local Health Board

h) every NHS Trust

i) every person who is designated by the Secretary of State as a provider of electronic monitoring services

NB CCGs have been replaced with Integrated Care Boards (ICBs) – July 2022, Health & Care Act 2022.

### **The Children Act 1989**

Sections 17 – Provision of services for children in need, their families and others

<http://www.legislation.gov.uk/ukpga/1989/41/section/17>

Section 27 – Co-operation between authorities

<http://www.legislation.gov.uk/ukpga/1989/41/section/27>

Section 47 – Local authority’s duty to investigate

<http://www.legislation.gov.uk/ukpga/1989/41/section/47>

Schedule 2 – Local authority support for children and families

<http://www.legislation.gov.uk/ukpga/1989/41/schedule/2>

Section 47 of the Children Act 1989 places a duty on local authorities to make enquiries where they have reasonable cause to suspect that a child in their area may be at risk of suffering significant harm.

It states that unless in all the circumstances it would be unreasonable for them to do so, the following listed authorities must assist a local authority with these enquiries if requested, in particular by providing relevant information.

- local authority;
- local education authority;
- housing authority;
- health authority;
- person authorised by the Secretary of State.

A local authority may also request help from those listed above in connection with its functions under Part 3 of the Act. Part 3 of the Act, which comprises of Sections 17-30, allows for local authorities to provide various types of support for children and families.

Section 17 places a general duty on local authorities to provide services for children in need in their area.

Section 27 enables the authority to request the help of one of those listed above where it appears that such an authority could, by taking any specified action, help in the exercise of any of their functions under Part 3 of the Act. Authorities are required to co-operate with a request for help so far as it is compatible with their own statutory duties and does not unduly prejudice the discharge of any of their functions.

In practice, when required to help under Sections 47 or 17 of the Act, authorities may be approached by social services and asked to:

- provide information about a child, young person or their family where there are concerns about a child's well-being, or to contribute to an assessment under Section 17 or a child protection enquiry;
- undertake specific types of assessments as part of a core assessment or to provide a service for a child in need;
- provide a report and attend a child protection case conference.

The Act does not require information to be shared in breach of confidence, but an authority should not refuse a request without considering the relative risks of sharing information, if necessary without consent, against the potential risk to a child if information is not shared.

### **The Children Act 2004**

Section 10 – Co-operation to improve well-being

<http://www.legislation.gov.uk/ukpga/2004/31/section/10>

Section 11 – Arrangements to safeguard and promote welfare

<http://www.legislation.gov.uk/ukpga/2004/31/section/11>

Section 10 places a duty on children's services authorities to promote co-operation between itself, its partners and other appropriate bodies carrying out functions in relation to children in the area in order to; improve physical and mental health and emotional well-being; provide protection from harm and neglect; provide education,

training and recreation, promote their contribution to society; and social and economic well-being.

Section 11 places a duty on all relevant authorities to make arrangements to ensure that their functions are carried out with regard to the need to safeguard and promote the welfare of children.

An authority and its partners must have regard to any guidance issued to them by the Secretary of State when exercising their functions under this Section 10 and 11.

In order to safeguard and promote the welfare of children, arrangements should ensure that:

- all staff in contact with children understand what to do and are aware of the most effective ways of sharing information if they believe a child and family may require targeted or specialist services in order to achieve their optimal outcomes;
- all staff in contact with children understand what to do and when to share information if they believe that a child may be in need, including those children suffering or at risk of significant harm.

### **Children (Leaving Care) Act 2000**

Section 2 – Additional functions of local authorities in respect of certain children  
<http://www.legislation.gov.uk/ukpga/2000/35/section/2>

The main purpose of the Act is to improve the life chances of young people living in and leaving local authority care. Its aims are:

- delay young people's discharge from care until they are prepared and ready to leave;
- improve the assessment, preparation and planning for leaving care;
- provide better personal support for young people after leaving care; and
- improve the financial arrangements for care leavers.

To do this, the 2000 Act amends the leaving care provisions contained in Section 24 of Children Act 1989 (c.41). The Children Act 1989 and its underlying principles provide the overall legal framework.

### **Protection of Children Act 1999**

Section 1 – Duty of Secretary of State to keep list  
[http://www.legislation.gov.uk/ukpga/1999/14/pdfs/ukpga\\_19990014\\_en.pdf](http://www.legislation.gov.uk/ukpga/1999/14/pdfs/ukpga_19990014_en.pdf)

The Act creates a system for identifying persons considered to be unsuitable to work with children. It introduces a 'one stop shop' to compel employers designated under the Act (and allows other employers) to access a single point for checking people they propose to employ in a child care position.

This will be achieved by checks being made of criminal records with the National Criminal Records Bureau and two lists maintained by the Department for Education and Skills.

### **Education Act 1996**

Section 13 – General responsibility for education  
<http://www.legislation.gov.uk/ukpga/1996/56/section/13>

Section 408 – Provision of information

<http://www.legislation.gov.uk/ukpga/1996/56/section/408>

Section 434(4) – Registration of pupils

<http://www.legislation.gov.uk/ukpga/1996/56/section/434>

Section 13 provides that a Local Education Authority (LEA) shall (so far as their powers enable them to do so) contribute towards the spiritual, moral, mental and physical development of the community, by securing that efficient primary and secondary education is available to meet the needs of the population of the area.

Section 408 requires the LEA, governing body or head teacher to make available information relevant to the curriculum, educational provision, syllabuses, educational achievements and arrangements relating to external qualifications.

Section 434(4) requires schools to keep details of children registered at a school and to make provision for this to be available for inspection, to allow extracts to be taken by authorised persons and to provide details to the Secretary of State and the LEA.

### **Education Act 2002**

Section 175 – Duties of LEAs and governing bodies in relation to welfare of children

<http://www.legislation.gov.uk/ukpga/2002/32/section/175>

Section 21 – General responsibility for conduct of school

<http://www.legislation.gov.uk/ukpga/2002/32/section/21>

The duty laid out in Section 11 of the Children Act 2004 mirrors the duty imposed by Section 175 of the Education Act 2002 on LEAs and the governing bodies of both maintained schools and further education institutions. This duty is to make arrangements to carry out their functions with a view to safeguarding and promoting the welfare of children.

Section 21 of the Act, as amended by Section 38 of the Education and Inspections Act 2006, places a duty on the governing body of a maintained school to promote the well-being of pupils at the school. Well-being in this section is defined with reference to Section 10(2) of the Children Act 2004. The Act adds that this duty has to be considered with regard to any relevant children and young person's plan.

### **Education (SEN) Regulations 2001**

Regulation 6 – Notices relating to assessment

<http://www.legislation.gov.uk/uksi/2001/3455/regulation/6/made>

Regulation 18 – Reviews of statements

<http://www.legislation.gov.uk/uksi/2001/3455/regulation/18/made>

Regulation 6 provides that when the LEA is considering making an assessment of a child's special educational needs, it is obliged to send copies of the notice to social services, health authorities and the head teacher of the school and inform them of any assistance they are likely to require.

Regulation 18 provides that an authority shall serve a notice on the head teacher of every school listing pupils with statements registered at that school. They will do the

same for relevant careers service for their area listing pupils with statements who will be in year 10 in that school year, the school attended and educational provision provided and will also serve a notice on the health authority and social services listing pupils with statements and the school attended.

### **Education (Pupil Information) Regulations 2005**

Section 5(5) – Disclosure of curricular and educational records  
<http://www.legislation.gov.uk/uksi/2005/1437/regulation/5/made>

Section 5(5) provides that a governing body should transfer a pupil's curricular record to the responsible person where a pupil is transferring to another school or further/higher education institution.

### **Learning and Skills Act 2008**

An Act which makes provision for individuals beyond the statutory leaving age to continue to participate in education or training. Chapter 2 provides a right for local education authorities and educational institutions to request certain categories of data.

#### [Section 14 Educational institutions: duty to provide information](#)

Relevant information about a pupil or student (a) who is attending an educational institution in England, and (b) to whom this Part applies, must, on request by a local education authority in England, be provided by the responsible person to the authority.

#### [Section 15 Supply of social security information](#)

Social security information may be supplied to a local education authority in England for the purpose of enabling or assisting the authority to exercise its functions.

#### [Section 16 Supply of information by public bodies](#)

Any of the persons or bodies (as outlined in Section 2 of the Act) may supply information about a person to a local education authority in England for the purpose of enabling or assisting the authority to exercise its functions under the Act.

#### [Section 17 Sharing and use of information held for purposes of support services or functions](#)

### **National Health Service Act 1977**

Section 2 – Secretary of State's general power as to services  
<http://www.legislation.gov.uk/ukpga/1977/49/section/2>

Section 22 – Co-operation between health authorities and local authorities  
<http://www.legislation.gov.uk/ukpga/1977/49/section/22>

The Act provides for a comprehensive health service to England and Wales to improve the physical and mental health of the population and to prevent, diagnose and treat illness.

Section 22 states that “in exercising their respective functions NHS bodies and local authorities shall co-operate with one another in order to secure and advance the health and welfare of the people of England and Wales.”

## **Health Act 1999**

Section 27 – Co-operation between NHS bodies and local authorities

<http://www.legislation.gov.uk/ukpga/1999/8/section/27>

Section 27 amends section 22 of the NHS Act 1977 and states that NHS bodies and local authorities shall cooperate with one another in order to secure the health and welfare of people.

## **National Health Service and Community Care Act 1990**

Provision of accommodation and welfare services

<http://www.legislation.gov.uk/ukpga/1990/19/part/III>

Provides that when a local authority is assessing need and it appears that there may be a need for health or housing provision, the local authority shall notify the appropriate CCG, Health Authority or housing department and invite them to assist.

## **National Health Service Act 2006**

Section 82 – Co-operation between NHS bodies and local authorities

<http://www.legislation.gov.uk/ukpga/2006/41/section/82>

Section 251 – Control of patient information

<http://www.legislation.gov.uk/ukpga/2006/41/section/251>

Section 82 of the Act places a duty on NHS bodies and local authorities to “co-operate with one another in order to secure and advance the health and welfare of the people of England and Wales” when exercising their respective functions.

## **Care Act 2014**

Section 6 – Co-operating generally

<http://www.legislation.gov.uk/ukpga/2014/23/section/6/enacted>

Section 6 of the Act makes it clear that a local authority must co-operate with each of its relevant partners in order to protect the Adult. In turn, each relevant partner must also co-operate with the local authority.

Section 42 – Enquiry by Local Authority

<http://www.legislation.gov.uk/ukpga/2014/23/section/42/enacted>

Section 42 of the Act places a duty on Local Authorities to make enquiries, or cause others to do so, if it believes an adult is experiencing, or is at risk of, abuse or neglect. An enquiry should establish whether any action needs to be taken to prevent or stop abuse or neglect, and if so, by whom.

Section 43 – Safeguarding Adults Board

<http://www.legislation.gov.uk/ukpga/2014/23/section/43/enacted>

Section 44 – Safeguarding Adults Reviews

<http://www.legislation.gov.uk/ukpga/2014/23/section/44/enacted>

Section 45 – Supply of information

<http://www.legislation.gov.uk/ukpga/2014/23/section/45/enacted>

Section 76 – Prisoners and persons in approved premises <http://www.legislation.gov.uk/ukpga/2014/23/section/76/enacted>

### **National Audit Act 1983**

Section 8 – Right to obtain documents and information  
<http://www.legislation.gov.uk/ukpga/1983/44/section/8>

The National Audit Office has a right of access to documents and materials which it reasonably requires to carry out its functions in relation to HMRC.

### **Civil Contingencies Act 2004**

Part 1 – Local arrangements for civil protection  
<http://www.legislation.gov.uk/ukpga/2004/36/part/1>

Part 2 – Emergency powers  
<http://www.legislation.gov.uk/ukpga/2004/36/part/2>

The Act places a statutory duty on all Category 1 and Category 2 Responders to share information with other local responders and defines Category 1 Responders as all local authorities, the Environment Agency, some NHS organisations and the emergency services. Category 2 Responders include utility companies and transport organisations.

### **Caldicott**

Although not a statutory requirement, NHS and Social Care organisations are committed to the Caldicott principles which encapsulate statutes such as Data Protection legislation, Human Rights Act 1998 and the Common Law Duty of Confidentiality when considering whether confidential information should be shared. The 8 principles are:

- Justify the purpose(s) for using personal information.
- Only use personal information when absolutely necessary.
- Use the minimum amount of personal information that is required.
- Access to personal information should be on a strict need to know basis.
- Everyone with access to personal information must be aware of his/her responsibilities.
- Everyone with access to personal information must understand and comply with legislation that governs personal information.
- The duty to share information can be as important as the duty to protect patient confidentiality.
- Inform patients and service users about how their confidential information is used.

Government Response to the Caldicott Review – Information: To share or not to Share (2013)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/251750/9731-2901141-TSO-Caldicott-Government\\_Response\\_ACCESSIBLE.PDF](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/251750/9731-2901141-TSO-Caldicott-Government_Response_ACCESSIBLE.PDF)

## **Mental Capacity Act 2005 Code of Practice**

Chapter 4 – How does the Act define a person’s capacity to make a decision and how should capacity be assessed?

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/921428/Mental-capacity-act-code-of-practice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/921428/Mental-capacity-act-code-of-practice.pdf)

## **Care Act 2015**

Chapter 14 – Safeguarding

14.34 – Early sharing of information is the key to providing an effective response where there are emerging concerns. No professional should assume that someone else will pass on information which they think may be critical to the safety and wellbeing of the adult. If a professional has concerns about the adult’s welfare and believes they are suffering or likely to suffer abuse or neglect, then they should share the information with the Local Authority and, or, the Police if they believe or suspect that a crime has been committed.

14.55 – Partners should ensure that they have the mechanisms in place that enable early identification and assessment of risk through timely information sharing and targeted multi-agency intervention.

14.77 – Everyone involved in an enquiry must focus on improving the Adults wellbeing and work together to that shared aim.

14.104 – Each Local Authority must set up a Safeguarding Adults Board. The main objective of a SAB is to assure itself that local safeguarding arrangements and partners act to help and protect adults in its area.

14.106 – It is important that the SAB has effective links with other key partnerships in the locality and share relevant information and work plans.

14.153 – All agencies should identify arrangements, consistent with principles and rules of fairness, confidentiality and data protection for making records available to those Adults affected by, and subject to, an enquiry. If the alleged abuser is using care and support themselves, then information about their involvement in an Adult safeguarding enquiry, including the outcome, should be included in their case record. If it is assessed that the individual continues to pose a threat to other people then this should be included in any information that is passed on to service providers or other people who need to know.

14.154 – In order to carry out its functions, SABs will need access to information that a wide number of people or other organisations may hold. Some of these may be SAB members, such as the NHS and the Police. Others will not be, such as private health and care providers or housing providers/housing support providers or education providers.

14.155 – If someone knows that abuse or neglect is happening they must act upon that knowledge, not wait to be asked for information.

14.156 – An SAB may request a person to supply information to it or to another person. The person who receives the request must provide the information provided to the SAB If:

- the request is made in order 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:
  - i. the information requested relates to the person to whom the request is made and their functions or activities or;
  - ii. the information requested has already been supplied to another person subject to an SAB request for information

## Chapter 17 – Prisons, approved premises and bail accommodation

17.21. Local Authorities should ensure the security of information held on people who are in custodial settings, and should develop agreements consistent with policies and procedures of Ministry of Justice and the National Offender Management Service and with relevant.

17.22. If a local authority is providing care and support for a person in the community and that person is subsequently remanded or sentenced to custody, or bailed to an approved premises, or required to live in approved premises as part of a community sentence, the local authority should share details of the most recent assessment and care and support plan to the relevant custodial setting and the local authority in which it is based so that care and support may continue.

17.23. It is unlikely that local authorities will know when an individual is remanded or sentenced to custody in a new local authority area. Prisons and/or prison health services should inform local authorities when someone they believe has care and support needs arrives at their establishment. Either party may use the mechanism to require co-operation to support working in an individual case, set out in chapter 15. Local authorities may also receive requests for information from managers of custodial settings or probation services when an individual who has already received care and support in the community is remanded or sentenced to custody. Local authorities should take all reasonable steps to provide the information requested as soon as practicable after receiving the request.

Care and Support Statutory Guidance (DoHSC 2020)

<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>

### **Every Child Matters (ECM) Initiative**

Every Child Matters

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/272064/5860.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/272064/5860.pdf)

### **Safeguarding**

Safeguarding Children in Education (DfE 2019)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/372753/Keeping\\_children\\_safe\\_in\\_education.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/372753/Keeping_children_safe_in_education.pdf)

### **Links to Information Governance Guidance**

There are also numerous sources of guidance relating to Information Governance, data sharing and information security. A selection of key sources is provided below. Please note some of the guidance below may be outdated due to General Data Protection Regulation and will be in the process of being replaced in order to reflect the changing legislation.

## **General**

HMG – Guidance for practitioners and managers

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/721581/Information sharing advice practitioners safeguarding services.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721581/Information_sharing_advice_practitioners_safeguarding_services.pdf)

Information Commissioner's Office – Data Sharing Code of Practice

<https://ico.org.uk/media/2615361/data-sharing-code-for-public-consultation.pdf>

HMG Security Policy Framework

<https://www.gov.uk/government/publications/security-policy-framework>

The National Cyber Security Centre

<https://www.ncsc.gov.uk/>

Cabinet Office – Data Protection and Sharing – Guidance for Emergency Planners and Responders

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/60970/dataprotection.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/60970/dataprotection.pdf)

GDPR Consent Guidance

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/consent/>

GDPR Data Protection Impact Assessment Guidance

<https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/accountability-and-governance/data-protection-impact-assessments-dpias/>

## **Health**

UK Caldicott Guardian Council

<https://www.gov.uk/government/groups/uk-caldicott-guardian-council>

Department of Health – Confidentiality NHS Code of Practice

<https://www.gov.uk/government/publications/confidentiality-nhs-code-of-practice>

Department of Health – NHS Information Governance – guidance on legal and professional obligations

<https://digital.nhs.uk/article/1203/NHS-Information-Governance-Guidance-on-Legal-and-Professional-Obligations->

GMC – Confidentiality

[https://www.gmc-uk.org/guidance/ethical\\_guidance/confidentiality.asp](https://www.gmc-uk.org/guidance/ethical_guidance/confidentiality.asp)

Information to Share or not to Share – The Information Governance Review

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/192572/2900774\\_InfoGovernance\\_accv2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192572/2900774_InfoGovernance_accv2.pdf)

NHSX – Guidance

[Information governance guidance - Information governance - NHS Transformation Directorate \(england.nhs.uk\)](https://www.nhs.uk/infogovernance/guidance/information-governance-guidance)

A Guide to Confidentiality in Health and Social Care

<https://digital.nhs.uk/data-and-information/looking-after-information/data-security-and-information-governance/codes-of-practice-for-handling-information-in-health-and-care/a-guide-to-confidentiality-in-health-and-social-care>

Review of Data Security, Consent and Opt Outs

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/535024/data-security-review.PDF](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/535024/data-security-review.PDF)

## **Adults**

DCA – Mental Capacity Act 2005 Code of Practice

<http://www.justice.gov.uk/downloads/protecting-the-vulnerable/mca/mca-code-practice-0509.pdf>

CQC – Guidance on the assessment of capacity

[https://www.cqc.org.uk/sites/default/files/documents/rp\\_poc1b2b\\_100563\\_20111223\\_v4\\_00\\_guidance\\_for\\_providers\\_mca\\_for\\_external\\_publication.pdf](https://www.cqc.org.uk/sites/default/files/documents/rp_poc1b2b_100563_20111223_v4_00_guidance_for_providers_mca_for_external_publication.pdf)

BMA – Mental Capacity Toolkit

<https://www.bma.org.uk/advice-and-support/ethics/adults-who-lack-capacity/mental-capacity-act-toolkit>

Department for Health – Care and Support Statutory Guidance

<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>

## **Children**

GDPR Guidance regarding Children

<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/children-and-the-gdpr/>

Department for Education – Every Child Matters: Change for Children

<https://infed.org/mobi/every-child-matters-change-for-children/>

GMC – 0-18 years: guidance for all doctors

<https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/0-18-years>

HMG – National Standards for youth justice services

<https://www.gov.uk/government/publications/national-standards-for-youth-justice-services>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/577103/youth-justice-review-final-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/577103/youth-justice-review-final-report.pdf)

Department for Education – Promoting the Health and Welfare of Looked After Children

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/412486/health\\_guidance\\_consultation\\_response.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/412486/health_guidance_consultation_response.pdf)

[https://www.education.gov.uk/publications/eOrderingDownload/Promoting\\_Health.pdf](https://www.education.gov.uk/publications/eOrderingDownload/Promoting_Health.pdf)

Department for Education – Keeping Children Safe in Education

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/372753/Keeping\\_children\\_safe\\_in\\_education.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/372753/Keeping_children_safe_in_education.pdf)

Children (Leaving Care) Act 2000 Regulations and Guidance

[http://webarchive.nationalarchives.gov.uk/20121206162732/http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/@dh/@en/documents/digitalasset/dh\\_4058600.pdf](http://webarchive.nationalarchives.gov.uk/20121206162732/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4058600.pdf)

Staffordshire & Stoke-on-Trent Safeguarding Boards – Information Sharing Guidance for Practitioners

*Staffordshire LSCB:* [Information Sharing Guidance for Practitioners](#)

*Stoke-on-Trent LSCB:* [Information Sharing Guidance for Practitioners](#)

### **Community safety**

Home Office – Information sharing for community safety

<http://www.homeoffice.gov.uk/publications/crime/info-sharing-community-safety/>

Ministry of Justice – MAPPA (Multi-Agency Public Protection Arrangements) guidance

[Multi-agency public protection arrangements \(MAPPA\): Guidance - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

### **Families**

Department of Schools, Children and Families – Think Family Toolkit

<http://webarchive.nationalarchives.gov.uk/20130323053534/https://www.education.gov.uk/publications/eOrderingDownload/Think-Family.pdf>

## Appendix C

### **Conditions of Consent**

This appendix contains:

1. When to obtain consent
2. Valid consent
3. Capacity
4. Obtained and recorded consent
5. Expiry of consent
6. Refusal and withdrawal of consent
7. Disclosing with consent
8. Disclosing without consent
9. Consent Checklist

#### **1. When to obtain consent**

1.1 Data Protection legislation states that organisations have to satisfy one or more conditions in order to legitimise their processing of personal data (unless an exemption applies). Consent is one condition that could be used to legitimise processing.

1.2 Although consent will provide a basis on which organisations can share personal data, it is not always achievable or even desirable and therefore organisations should consider which condition is most appropriate to the sharing that will be taking place. It is bad practice to offer individuals a choice if the sharing is going to take place regardless of their wishes, i.e. where it is required by statute.

1.3 The Information Commissioner's Office has provided that consent is most likely to be required when:

- No other lawful basis applies, for example you wish to use the data in a way that is incompatible with the original purpose;
- You are using special category and explicit consent is required to legitimise the processing;
- The individual would be likely to object if the data was shared without their consent;
- Under ePrivacy laws consent will be required for most marketing calls or messages, website cookies or other online tracking methods.

1.4 It will be the decision of the sharing Partners to identify which conditions will be relied upon for a particular sharing practice. Where that condition is consent Partners must be sure that individuals know exactly what information sharing they are consenting to and understand the implications for them. They must have genuine control over whether or not the data sharing takes place.

1.5 There must be no imbalance of power in the relationship between the data controller and the data subject, consent would not be freely given if so. Therefore public authorities and employers may need to consider alternative lawful basis to rely upon as they can be seen in a position of power.

## 2. Valid consent

2.1 Consent is defined in the General Data Protection Regulation (GDPR) as: 'any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by statement or by a clear affirmation action, signifies agreement to the processing of personal data relating to him or her'. Where relevant consent should also be granular, so separate consent for separate activities, not blanket or vague consent requests.

2.2 For consent to be valid and informed, the person concerned must:

- Not be acting under duress (see paragraph 2.3);
- Been given genuine choice and control;
- Truly understand and have received sufficient information to make a decision (see paragraph 2.4);
- Actively signify agreement; and
- Have the capacity to make the decision (see paragraph 3 below).

2.3 Consent must be given voluntarily and freely without any pressure or undue influence being exerted on the person by either those seeking consent or family and friends of the person whose consent is being sought.

2.4 Partners must ensure that the person concerned understands:

- Why their information needs to be shared;
- What type of information may be involved in the sharing;
- Who that information may be shared with; and
- How they can easily withdraw their consent.

2.5 The person should also be advised of their rights with regard to their information, namely:

- The right to withhold their consent
- The right to place restrictions on the use of their information
- The right to change their mind and easily withdraw their consent at any time
- The right to have access to their records

2.6 As well as discussing consent with the person, it is good practice to provide the person with information in written form, in an appropriate format i.e. language, Braille.

2.7 The key criterion that must be satisfied when obtaining consent is that the person concerned should be 'mentally and emotionally capable of giving informed consent of their own free will'.

2.8 Silence and inaction is not acceptable, there must be the ability to show that the data subject actively consented. Pre ticked boxes are not acceptable.

2.9 All Data Controllers must be able to demonstrate that there is a process in place and maintain records of consent. Consents should be organic and actively managed, not a one off compliance box to tick.

2.10 Recital 43 of GDPR makes clear that consent should only be used where appropriate, particularly in relation to public authorities where it is highlighted relying on consent can bring about an imbalance between the data controller and the data subject:

In order to ensure that consent is freely given, consent should not provide a valid legal ground for the processing of personal data in a specific case

where there is a clear imbalance between the data subject and the controller, in particular where the controller is a public authority and it is therefore unlikely that consent was freely given in all the circumstances of that specific situation.

Consent is presumed not to be freely given if it does not allow separate consent to be given to different personal data processing operations despite it being appropriate in the individual case, or if the performance of a contract, including the provision of a service, is dependent on the consent despite such consent not being necessary for such performance.

### 3. Capacity

3.1 For a person to have capacity to provide consent they must be able to comprehend and retain the information material to the decision and must be able to consider this information in the decision making process.

3.2 For processing children's data there must be a lawful basis. Consent is one possible basis but not the only option. If you are relying on consent as the lawful basis when offering an online service directly to a child only children aged 13 or over are able to provide their own consent. If this does not feel suitable consent should be sought from someone with parental responsibility. The key consideration is that valid, freely given and informed consent must be sought.

3.3 Following the case of *Gillick v West Norfolk and Wisbech AHA* [1986] AC 122, the courts held that young people (below the age of 16) who have sufficient understanding and intelligence to enable them to understand fully what is involved, will also have capacity to consent.

3.4 It should be seen as good practice to involve the parent(s) of the young person in the consent process, unless this is against the wishes of the young person.

3.5 The Children Act 1989 sets out persons who may have parental responsibility, these include:

- The child's parents if married to each other at the time of conception or birth;
- The child's mother, but not the father if they were not married, unless the father has acquired parental responsibility via a court order or a parental responsibility agreement, or the couple subsequently marry;
- The child's father, where the parents are unmarried but the father has registered the child with the mother, where the birth has been registered after 1<sup>st</sup> December 2003 (Children Act 1989 S4 (a)1A);
- The child's legally appointed guardian;
- A person in whose favour the court has made a residence order in respect of the child;
- A local authority designated in a care order in respect of the child;
- A local authority or other authorised person who holds an emergency protection order in respect of the child.

It should be noted that foster carers or guardians do not automatically have parental responsibility.

3.6 If a data controller decides to rely on children's consent age-verification measures should be implemented. Reasonable efforts to verify parental responsibility should also be made for those under the relevant age.

3.6 In circumstances where the individual is considered not capable of providing consent, it will usually be sought from someone acting on behalf of the individual in their best interests. A third party with a legal right to make decisions on an individual's behalf (e.g. Power of Attorney) can give consent.

3.7 The Mental Capacity Act 2005 provides the legal framework for acting and decision-making on behalf of individuals aged 16 and over who lack the mental capacity to make decisions on their own behalf.

3.8 Section 1 of the Act sets out the five 'statutory principles' which are the values that underpin the Act's requirements. The principles are as follows:

1. A person must be assumed to have capacity unless it is established that they lack capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because he makes an unwise decision.
4. An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.
5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

3.9 The Act is intended to be enabling and supportive of people who lack capacity, not restrictive or controlling of their lives. The underlying philosophy of the Act is to ensure that any decision made, or action taken, is made in the best interests of the individual.

3.10 The BMA has published guidance on the assessment of capacity.

#### **4. Obtained and recorded consent**

4.1 In order for consent to be obtained lawfully it is essential that all persons who may be expected to obtain consent for the sharing of personal information receive appropriate training, and that under normal circumstances only those employees who have received training and been approved by management, should seek consent.

4.2 Consent may be given verbally, non-verbally or in writing. In order to avoid any confusion or misunderstanding at later date, non-verbal and verbal consent should be witnessed and the details of the witness recorded.

4.3 Data controllers must maintain clear records to demonstrate consent. Consent is unlikely to be deemed valid if these records do not exist.

4.4 All agencies should have in place a means by which an individual, or their guardian/representative, can record their explicit consent to personal information being disclosed and any limitations, if any, they wish to place on that disclosure.

4.5 The consent form should indicate the following:

- Details of the agency and person obtaining consent
- Details of the person whose personal details may/will be shared
- The purpose for the sharing of the personal information
- The type of personal information that will be shared
- Details of any sensitive information that will be shared
- The organisation(s) with whom the personal information may/will be shared
- Any time limit on the use of the consent
- The right to withhold their consent
- Any limits on disclosure of personal information, as specified by the individual
- The right to withdraw their consent at any time and how they can do so
- The right to have access to their records
- Details of the supporting information given to the individual
- Details of the person (guardian/representative) giving consent where appropriate
- Be separate from any other terms and conditions or a precondition of any service

A 'Consent form template' and 'Consent checklist' can be found in [Appendix H](#).

4.6 The agency obtaining consent will:

- a) securely retain the consent form on the individual's file/record and record any relevant information on any electronic systems used; and
- b) provide the individual or their guardian/representative, having signed the consent, a copy for their retention.

## **5. Expiry of consent**

5.1 In general once a person has given consent, that consent may remain valid for an indefinite duration, unless the person subsequently withdraws that consent.

5.2 For the purpose of this Protocol the consent duration should be time limited to the specific 'piece of work' that is being proposed.

5.3 It should be considered good practice to seek 'fresh' consent once the original piece of work is completed or there are significant changes in the circumstances of the person or the work being undertaken.

## **6. Refusal and withdrawal of consent**

6.1 If a person makes a voluntary and informed decision to refuse consent for their personal information to be shared, this decision must be respected unless there are sound legal grounds for not doing so.

6.2 A person, having given their consent, is entitled at any time to subsequently withdraw that consent. Like refusals, their wishes must be respected unless there are sound legal grounds for not doing so.

6.3 Partner agencies should remember that it is bad practice to offer individuals a choice if the sharing is going to take place regardless of their wishes, i.e. where it is required by statute.

6.4 If a person refuses or withdraws consent the consequences of doing so should be explained to them but care must be exercised not to place the person under any undue pressure.

## 7. Disclosing with consent

7.1 Only staff that have been authorised to do so should disclose personal information about an individual service user.

7.2 Prior to disclosing personal information about an individual, the authorised member of staff should check the individual's file/record in order to ascertain:

- That consent to disclose has been given;
- The consent is applicable for the current situation; and
- Any restrictions that have been identified by the individual.

7.3 Upon the first instance of disclosure with regards to a particular sharing situation, the Partner making the disclosure should forward a copy of the individual's consent form to the receiving Partner.

7.4 Sharing of personal information will be carried out in line with the process outlined in [section 4](#) of the Protocol (process for sharing) and in accordance with any agreed individual Information Sharing Agreement.

7.5 Where personal information has been disclosed to another agency, a record of that disclosure should be made on the individual's file/record, this should include:

- a) The date the information was disclosed
- b) Details of who made the disclosure
- c) Details of what information was disclosed
- d) Details of who the disclosure was made to
- e) Details of how the disclosure was made

7.6 Where a disclosure is made with consent the providing, and recipient, agency should have procedures in place to record information provided/received in line with [paragraph 4.10](#) of the Protocol:

- The date the information was requested
- Details of the person(s) that made the request
- Details of the information requested
- The personal details of the person(s) who is the subject of the information
- Any restrictions placed on the information that has been provided i.e. 'not to be disclosed to the service user'
- Details of the person that authorised the disclosure
- The grounds for disclosing
- Whether consent has been sought and received
- Details of the information provided/received
- The date the information was provided/received

A 'Decision to Disclose form' can be found in [Appendix H](#).

## 8. Disclosing without consent

8.1 Disclosure of personal information without consent must be justifiable where other statutory conditions, or the criterion for claiming an exemption under the Data Protection Act, can be met. Without such justification both the agency and the member

of staff expose themselves to the risk of prosecution, liability to a compensation order under the legislation or damages for a breach of the Human Rights Act.

8.2 All agencies who are party to this Protocol should set in place policies and procedures that deal specifically with the sharing of information in emergency situations e.g. major disaster.

8.3 Agencies should designate a person who has the knowledge and authority to take responsibility for making decisions on disclosure without consent. This person should hold sufficient seniority within the agency with influence on policies and procedures. Within the health and social care agencies it is expected that this person will be the Caldicott Guardian.

8.4 Where personal information has been disclosed to another agency without consent, a record of that disclosure should be made on the individual's file/record, this should include:

- a) The date the information was disclosed
- b) Details of who made the disclosure
- c) Details of what information was disclosed
- d) Details of who the disclosure was made to
- e) Details of how the disclosure was made

8.5 Where a disclosure is made without consent the providing, and recipient, agency should have procedures in place to record information provided/received in line with paragraph 4.10 of the Protocol:

- The date the information was requested
- Details of the person(s) that made the request
- Details of the information requested
- The personal details of the person(s) who is the subject of the information
- Any restrictions placed on the information that has been provided i.e. 'not to be disclosed to the service user'
- Details of the person that authorised the disclosure
- The grounds for disclosing
- Whether consent has been sought and received
- Details of the information provided/received
- The date the information was provided/received

A 'Decision to Disclose form' can be found in [Appendix H](#).

8.6 It is essential that all agencies who are party to the Protocol have policies and procedures in place governing who may disclose personal information and that those policies/procedures are communicated to all of their employees.

## 9. Consent Checklist

When obtaining consent from a data subject, consider whether you can answer 'yes' to the following questions.

- a. Is consent required?
- b. Is the data subject acting voluntarily and of their own free will?
- c. Does the data subject understand why their information needs to be shared, what information will be shared and who their information will be shared with?
- d. Has the data subject signified their agreement to the sharing?
- e. Does the data subject have the capacity to provide consent?
- f. Have you suitably recorded whether consent was given and what information was provided to the data subject at the time?

If you have answered 'yes' to the above questions, ensure that you have considered the following:

- a. Are there any time limits on the use of the consent and have they been communicated to the data subject?
- b. Does the data subject understand that they can withhold or withdraw their consent at any time and how to request this?
- c. Has the data subject put any restrictions/limits on the use of their personal information?
- d. Has the data subject been made aware of their right to access to their records?

## Appendix D

### ***Information Sharing Agreement***

In order to maintain a consistent approach, all agencies who are party to the One Staffordshire Information Sharing Protocol will ensure that any individual Information Sharing Agreements contain the following information:-

- Basis for sharing – legal powers, processing conditions and fairness;
- Purpose(s) of the sharing;
- Data to be shared;
- Recipients or types of recipients;
- Data quality – accuracy, relevance, compatibility, usability, etc;
- Retention and destruction;
- Rights of the data subject – Subject Access Requests, Freedom of Information requests, queries and complaints;
- Security arrangements;
- Sanctions for failure to comply and/or staff breaches
- Review of effectiveness; and
- Termination of Agreement.

Please note, there should also be reference to the involved Parties status in regards to the Data Security and Protection Toolkit where the sharing of information relates to health and social care data and the organisations involved are subject to the Toolkit. See point 4.32.

All Individual Information Sharing Agreements will be approved by the respective Designated Liaison Officer nominated within each agency (see paragraph 3.7).

Where Information Sharing Agreements exist between agencies prior to signing up to the One Staffordshire Information Sharing Protocol, such Agreements will remain valid. However, those Agreements should be reviewed and if necessary brought into line with the One Staffordshire Information Sharing Protocol at the earliest opportunity in order to maintain a consistent approach.

Purposes for sharing data under an individual Information Sharing Agreement may be short term in the nature of a joint operation by Partner agencies or medium term to support the ongoing activities of a specific Partner or other group of Partners.

The individual Information Sharing Agreement in relation to a specific operation will be valid for the period of that operation only.

All Information Sharing Agreements will be governed by the principles set out in the One Staffordshire Information Sharing Protocol but each will declare its specifics on the template provided in [Appendix H](#). Signature, by participants, of the Agreement will imply acceptance of the provisions of all parts of the Protocol.

## Appendix E

### ***Information Sharing Health and Social Care Data***

This section relates to health and social care data. When sharing information for the purposes of health and social care there are additional factors to take into consideration. The information intending to be shared is about an individual who, in times of need, seeks help from a health and social care professional.

The individual has certain rights concerning their personal information, including a right to access that information and a right to object to it being used in certain ways. Respecting the individual's rights and expectations about confidentiality and telling them about how and why their personal information is used is a key principle to be maintained by all Parties.

For direct care, information will be shared between all of the health and social care professionals who work together in a multidisciplinary direct care team who plan, coordinate and provide care and treatment in accordance to an individuals needs taking into account their health condition and personal circumstances.

The direct care team may include a wide range of professionals not all of whom have direct contact with the individual. So, as well as doctors, nurses, social workers, social care staff etc. the team also includes laboratory staff, IT staff and administrative staff who provide support to help the team run efficiently and effectively. Members of the team may be staff from one organisation (e.g. a GP Practice team) or from different organisations (e.g. community healthcare staff, hospital staff, social workers and carers). These staff may work in public sector, non-public sector and 3<sup>rd</sup> sector (voluntary) organisations, all working together to provide health and social care services.

Whoever is using information about a person, they are bound by laws, contracts and professional codes of conduct to use it responsibly, hold it securely and keep it confidential.

#### **What information is being shared?**

All information about an identifiable person and their physical and mental health and condition is confidential. Relevant information about the person and their current care needs will only be shared by the health and social care professionals who are involved in the provision of care and treatment to the individual (the "direct care team") when it is:

- necessary for them to be able to do their job; and
- with the person's knowledge and agreement; and
- in accordance with the conditions set out in law.

"Relevant information" is information that may directly influence the health or social care professionals' decision over what care is given to a patient or service user, and how that care should be given (*Independent Information Governance Review/Caldicott 2*). It is not necessary for everybody to know everything. Some information will be relevant to certain professional groups but completely irrelevant to others and therefore should not be shared.

### **Why is information shared?**

Information is shared to support the **direct care** of patients. '**Direct care**' meaning all activities that directly contribute to the diagnosis, care and treatment of the individual. Information is shared so that health and social care professionals in the direct care team can:

- design and implement a plan of care;
- provide continuous quality care;
- communicate with each other about the progress of the individual, developments, changes to the care plan.

### **When is information shared?**

The 7<sup>th</sup> Caldicott principle states: 'The duty to share information can be as important as the duty to protect confidentiality. Health and social care professionals should have the confidence to share information in the best interests of their patient within the framework set out by these principles'.

When the individual agrees to being treated it creates a direct care relationship between them and the health or social care professionals in the direct care team. This is known as a "legitimate relationship". As of October 2015 they will also have a legal duty to share information when:

- it will facilitate the provision of health and social care services to the individual; and
- it is in the individual's best interest; and
- the individual has not objected and confidentiality requirements have been met.

The Health and Social Care (Safety and Quality) Act 2015 establishes this duty and puts the 7<sup>th</sup> Caldicott principle onto a legal footing. The Act applies to any organisation commissioning or providing health and social care services. If an individual has been told about how their information will be used and has not raised an objection, the direct care team can assume they have agreed their information being shared when they agree to receive care and treatment.

Where sharing involves health or adult social care data, to be used for purposes other than the direct care of individuals, the sharing and subsequent use must comply with the National Data Opt-out standards.

### **Where information is shared**

Information will be shared in the location where the individual sees the health or social care professionals and receives direct care and treatment. This could be a range of care settings or the individual's home. Information may also be shared without the individual being present, for example in a laboratory where test results are being processed; or in an office administrative tasks are being processed to support the provision of direct care.

Specific Tier 2 agreements (see [Appendix H](#) for template) must set out the specific sharing being undertaken by parties in order to deliver health and social care services to the population of Staffordshire.

## Appendix F

### *Fair Processing*

Data Protection legislation requires that personal data is processed fairly. This means that people should generally be aware of which organisations are sharing their personal data as well as what it is being used for.

Fairness also requires that where personal data is shared, that it is reasonable, and that individuals would be likely to expect the sharing and would not reasonably object to it if they were given the opportunity.

The most common method of satisfying the requirement of fairness is to provide the data subject with a privacy notice. In a sharing context, a privacy notice should at least tell a data subject:

- Who the Data Controller is
- Who the Data Protection Officer (DPO) is and their contact details
- Why you are going to share personal data and the legal basis to do so
- What the data is
- Who you are going to share personal data with
- Whether there will be any Third Country transfers

In addition to the above the following should also be considered:

- The retention of the information held
- What the legitimate interests of the Data Controller are, if applicable
- What the data subject rights are, including the right to withdraw consent at any time
- The right to lodge a complaint with the Information Commissioners Office
- The source of the data, if applicable
- Whether the data will be used for automated decision making, the logic behind and if there are any potential consequences

Where consent will be obtained in order to satisfy legal basis and conditions for processing a privacy notice should be provided to the data subject at the same time.

Where the data is not obtained directly from the data subject fair processing information should be provided to the data subject within a month of the information being collected.

A Data Controller does not have to provide this information if one of the following apply:

- The data subject already has the information.
- It would be impossible to provide or can be proved to disproportionate.
- It would breach confidentiality or secrecy obligations.

Responsibility for providing a fair processing generally falls to the organisation that collected the data originally; however it is good practice for all Partners that are involved in sharing to ensure that individuals remain aware of who has their personal data and what it is being used for.

A 'Privacy Notice template' can be found in [Appendix H](#).

## Appendix G

### *Individual Information Sharing Agreements*

- [Appendix A confidentiality agreement template](#)
- [Appendix B Safer Communities formal request form 2024](#)
- [Appendix C Private Landlords](#)
- [Appendix D Private Housing](#)
- [DSA Household support fund](#)
- [Safer Communities MoU 2024](#)

## Appendix H

### *Information Sharing Protocol templates*

- [Consent form template](#)
- [Information sharing agreement template](#)
- [Protocol acceptance form](#)
- [Decision to disclose form](#)
- [Confidentiality agreement template](#)
- [Fair processing notice template](#)