Information Sharing Agreement (ISA)

This Information Sharing Agreement (ISA) defines the arrangements for processing data between the agencies listed below for the purposes of Safeguarding Children and sits underneath the overarching Information Sharing Protocol (ISP).

It includes the arrangements for Early Help, Looked After Children, Children in Need and Child Protection and post incident investigations throughout Northamptonshire.

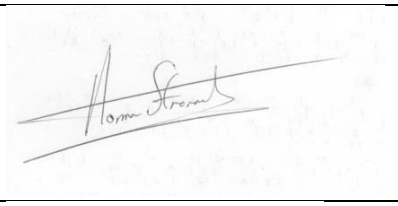
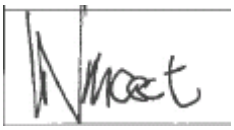
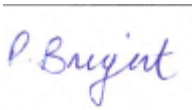
There are other reasons for agencies to share information which are not covered by this agreement such as the obligation for agencies to share information with their regulators for the purpose of assurance.

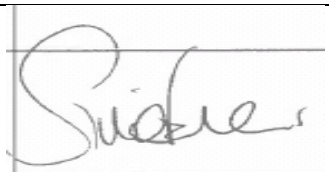
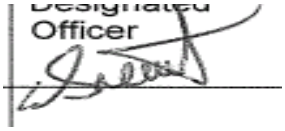
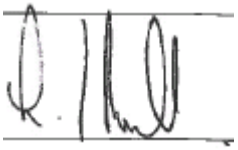
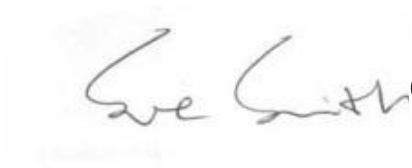
The appendices provide further information and guidance for staff including the Government Guidance, Every Child Matters, "Information Sharing: Guidance for practitioners and managers", (2008) seven golden rules for information sharing.

See Appendix 'A' for further detail regarding this.

VERSION CONTROL			
DATE	**VERSION**	**COMMENTS & AMENDMENTS**	**BY WHOM**
01.10.14	DRAFT V0.1	First Draft	Claire De Gidlow
16.10.14	DRAFT V0.2	Reviewed. Covers the legislative requirements as set out under DPA	Mirko Rados
22.10.14	Draft V0.3	Revised content, updated links and organisations in section 1	Richard Corless
23.10.14	Draft V0.4	Comments provided	Claire De Gidlow
19.11.14	Draft V0.5	Comments from Partners Included	Richard Corless
24.11.14	Final V1.0	Additional section for Subject Access Requests included and ready for sign-off	Richard Corless
22.06.15	Draft V1.1	Branding and updated naming throughout	Richard Corless
28.10.15	Draft V1.2	Amended following queries raised by District and Borough colleagues	Mirko Rados
09.11.15	Final V2.0	Links amended throughout. Final version for sign off by all named partners.	Kevin Johnson
03.05.18	Final V3.0	Updated to comply with GDPR regulations.	Mirko Rados

1. Parties to the agreement: Full name of the agencies or businesses

Organisation	Name	Position	Signature	Date
The Bedfordshire, Northamptonshire, Cambridgeshire and Hertfordshire Community Rehabilitation Company Limited	Marie-Louise Prior	Head of Local Delivery Unit- Northampton shire		12/01/16
Borough Council of Wellingborough	John Campbell	Chief Executive		11/11/15
CAFCASS	Janice Straker	Service Manager		16/03/16
Corby Borough Council	Norman Stronach	Chief Executive		10/11/15
Corby Clinical Commissioning Group	Tracy Keats	Assistant Director of Safeguarding		18/11/15
Daventry District Council	Ian Vincent	Chief Executive		13/11/15
East Midlands Ambulance Service NHS Trust	Janette Kirk	Head of Information Governance		10/12/15
East Northamptonshire District Council	David Oliver	Chief Executive		18/11/15
Horizons	Paula Bright	Senior Executive		17/11/15
Kettering Borough Cuncil	Martin Hammond	Deputy Chief Executive		12/11/15
Kettering General Hospital NHS Trust	Leanne Hackshall	Director of Quality and Nursing		11/12/15

Nene Clinical Commissioning Group	Tracy Keats	Assistant Director of Safeguarding		18/11/15
Northampton Borough Council	David Kennedy	Chief Executive		12/01/16
Northampton General Hospital NHS Trust	Dr Sonia Stewart	CEO		20/11/15
Northamptonshire County Council	Andrew Jepps	Caldicott Guardian		16/11/15
Northamptonshire Healthcare Foundation Trust	Julie Shepherd	Director of Nursing, AHP's and Quality		30/11/15
Northamptonshire Police	Simon Edens	Chief Constable		11/11/15
National Probation Service - Northamptonshire LDU	Denise Meylan	Head of Northamptonshire LDU		4/12/15
Northamptonshire Youth Offending Service	Mike Hodgson	Acting Head of Service		27/11/15
Rainsbrook Secure Training Centre	Cindy Brewster	Deputy Director/Head of Resettlement		10/11/15
St Andrew's Healthcare	Lesley Boswell	Executive Director of Nursing and Quality		17/12/15
South Northamptonshire District Council	Sue Smith	Joint Chief Executive		03/12/15

2. Why is the information being shared?

This document is intended to assist professionals within the children's workforce when sharing information when managing child protection concerns they encounter amongst the children, young people and families they are working with. It should be read in conjunction with the Northamptonshire Safeguarding Children Procedures.

Where professionals require further support in the management of complex information sharing they should seek advice from their organisations Information Governance leads and Safeguarding Children supervisors/managers.

The scope of this information sharing agreement includes the following purposes where agencies will need to share information in order to safeguard Children and Young People:

Child Protection

Section 47(1) of the Children Act 1989 states that:

Where a local authority:

(a) is informed that a child who lives, or is found in their area (i) is the subject of an emergency protection order, or (ii) is in police protection; and
(b) have reasonable cause to suspect that a child who lives, or is found in their area is suffering, or is likely to suffer significant harm:

the authority shall make, or cause to be made, such enquires as they consider necessary to enable them to decide whether they should take any action to safeguard and promote the child's welfare.
Where a local authority are conducting enquiries under s47 the following organisations are under a statutory duty to assist the Local Authority with those enquiries (in particular by providing relevant information and advice) if called upon by the authority to do so.

- any local authority
- any local housing authority
- the National Health Service Commissioning Board
- any clinical commissioning group
- any National Health Service trust or NHS Foundation Trust

For more information see Appendix B

Children in Need

Section 17(10) states that a child shall be taken to be in need if:

(a) the child is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision of services by a local authority under Part III of the Children Act 1989;

(b) the child's health or development is likely to be significantly impaired, or further impaired, without the provision of such services; or
(c) the child is disabled.

For more information see Appendices B & C

Early Help and Prevention

Early Help and Prevention is about how different agencies work together to help children, young people and their families at any point in their lives prevent or reduce difficulties.

More information about Early Help and thresholds to other services for children and families across Northamptonshire can be found here.

Signed consent is required when referring for Early Help support.

For more information see Appendix B to this document.

This information sharing agreement is intended to cover a number of both operational and review purposes.

These include:

a) if there is reasonable cause to suspect children suffering or likely to suffer significant harm under section 47 of the Children Act 1989
b) if a child is in need under Section 17(10)
c) provision of early help and prevention to improve outcomes for children and young people at all stages of their development
d) prevention and detection of Child Sexual Abuse and exploitation (CSE) offences
e) protection of children who are at risk or who are the victims of Female Genital Mutilation
f) enabling the Northamptonshire Safeguarding Children's Board to meet their statutory duty to conduct Serious Case and Child Death Reviews
g) Information requested for the purpose of undertaking health reviews for Looked After Children.

3. What information is being shared?

The following are the types of data that may be shared between parties to this agreement for the purposes stated above:

Examples of the data required
Name(s) and Alias'
Dates of Birth and Dates of Death (if applicable)
Current Address and Previous Addresses
Contact information and Next of Kin
Family Information regarding siblings
Information on contacts with service/team
Outcomes of contacts
Names of key workers/staff involved
Alleged perpetrator and their relationship to the victim
Health Information (GP/Health Workers involved)
Photos of injuries sustained (in some cases)
Child Protection Plans and associated documentation
Any other information necessary to carry out the purposes mentioned in section 2

There are different rules for sharing information dependent on the category of need please see appendix 'B' for further guidance

4. What is your legal justification for sharing?

In any case where a public body is contemplating a form of data-sharing (whether between internal teams or with external bodies), the issues are as follows:

a) Does the public body have the statutory power to process the data in question?

Under Section 11 of the Children Act 2004 key people and bodies have the duty to make arrangements which ensure their functions are discharged with regard to the need to safeguard and promote the welfare of children. This extends to the member agencies of the NSCB and the services they commission. Information sharing is fundamental for complying with this statutory requirement. In addition, there are statutory duties to share information in certain circumstances, for example, to enable the local authority to meet its duties to investigate the circumstances of a child or young person under s47 Children Act 1989 or to enable the NSCB to undertake a serious case review or other type of review under s.14B Children Act 2010.

b) Would the data-sharing be in accordance with the requirements of Data ProtectionLegislation? (i) The Data Protection Act 1998 up to and including 24 May 2018, and (ii) the GDPR from 25 May 2018 (iii) The Data Protection Act 2018 when it comes into force and any secondary legislation as amended or updated from time to time (iv) any successor legislation to the GDPR or the Data Protection Act 2018

Information sharing for the purposes of this agreement will be permitted if one of the conditions for processing are met i.e. "the processing is necessary for the exercise of any other functions of a public nature exercised in the public interest by any person"; (para 5 Schedule 2 DPA 1998)

and/or in the case of sensitive personal data the "the processing is necessary for the exercise of any functions conferred on any person by or under an enactment (para 7 schedule 3 DPA 1998).

c) Is the data confidential at common law such that sharing of the data may give rise to a claim for damages for breach of confidence?

Information shared for the purposes of this agreement is likely to be confidential but may be shared if there is a legal requirement to disclose information or if it is in the public interest to disclose information.

d) Is the data-sharing prohibited under Article 8 ECHR?

Article 8 provides:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such 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.

   Sharing personal data about an individual without their consent is likely to engage this right, even where it is otherwise lawful but the right is qualified so that if the infringement is necessary to serve a pressing social need and in the public interest then it can be justified. This comes down to the proportionality of disclosing the information, taking into account the extent to which it is required to fulfil the purpose for which it is shared against the extent to which it infringes the individual's privacy.

5. Has consent been gained if required?

The focus of confidentiality is consent. Personal information shared in confidence should not be used or disclosed further without the consent of the individual.
Consent is not required from the subject of the information when an agency is required by law to share information or when a court makes an order for certain information or case files to be made available to the court; when such situations arise practitioners must share information.

6. Exceptions to the requirement to consent

Exceptions to the requirement for consent are rare and limited to legal requirements to disclose information, e.g. by Acts of Parliament or court orders; disclosures permitted by regulations made under section 251 of the NHS Act 2006, (previously known as section 60 of the Health and Social Care Act 2001), or where there is a public interest justification for breaching confidentiality such as a serious crime, including murder, rape or child abuse.

7. How will the information be shared?

Partners to this agreement will only share the minimum amount of information necessary to achieve the desired outcome and only use information for the purpose for which it has been requested. Information will be shared using telephone calls and/or the most secure electronic method available and agreed within their own agency. This should be using secure E mail where possible, for example;

- Government Secure Extranet (GSX)
- Government Secure Intranet (GSI)
- National Health Service (NHS)
- Criminal Justice Extranet (CJX)
- Police National Network (PNN)

For example, GCSx stands for Government Connect Secure Extranet. It is a secure private Wide-Area Network (WAN) which enables secure interactions between connected Local Authorities and organisations.

GCSx is connected to the Government Secure Intranet (GSI), which also enables secure interactions between local authorities and central government departments and national bodies. GCSx provides a range of connectivity options to enable access the GSI network and its hosted services; GCSx does not use the Internet or any other public networks.

These E mail addresses have different extensions in agencies. For example in the NHS these are person@NHS.net and for Criminal Justice CJX users the extension .CJSM.net is added to the normal E mail address. Further details can be obtained from your own information security teams.

When sending out e-mails, faxes, or correspondence containing confidential information practitioners should follow their agency policies and procedures.

Transmission by Telephone (Voice)
The public telephone network is not secure. There are a number of ways in which conversations may be intercepted or overheard; mobile phones are particularly vulnerable. Care should be taken not to disclose sensitive information using a normal telephone.

Information requiring protection can, if there are no alternative communication routes, be passed over the telephone. The language should be guarded and only the minimum information needed to relay the communication's meaning should be used.

Information classified as OFFICIAL-SENSITIVE must not be discussed over the telephone except in extraordinary circumstances. In these circumstances a guarded manner must be used (such as by referring to "the subject of my minute dated yesterday" or "the matter we are both currently engaged upon").

Any conversations involving information classified as SECRET must be communicated using the encrypted Brent phone system where available.

Sharing information appropriately and securely

When a practitioner has made the decision to share information s/he must

- ensure information shared is necessary for the purpose for which it is being shared

- understand the limits of any consent given and get consent where appropriate, if it hasn't already been gained, especially if the information has been provided by a third party
- distinguish fact from opinion
- share the information only with the person or people who need to know
- check that the information is accurate and up-to-date
- share the information in a secure way
- establish whether the recipient intends to pass it on to other people, and ensure the recipient understands the limits of any consent that has been given
- ensure that the person to which the information relates (or the person who provided the information) is informed that you are sharing information where it is safe to do so
- Partners will follow the appropriate rules on the retention, auditing and destruction of data.

8. How will the information be stored and security of the information?

Information will be stored on secure servers and storage methods agreed within individual agencies own policies and procedures.

Partner organisations will ensure that the minimum standards of security they require are in place with the other partner organisations. Minimum standards should be documented by all partner organisations within their Information Security/Data Protection polices and these should be made freely available to all partner organisations on request.

Each partner organisation will ensure that all requests and subsequent responses are properly authorised and logged on the appropriate systems, to provide a clear audit trail or where information was requested and received from.

Each partner organisation will operate within legal requirements, for example, those of any relevant Data Protection Legislation (as noted in part 4(b) of this agreement).

Each partner organisation will ensure that staff access to information is on a need-to-know basis, and will not, unless specifically stated in the conditions of release, share the data or information with any other partner or non-partner agencies, unless a legal power exists that allows the sharing.

The organisation requesting the information will become the data controller on receipt and will be responsible for ensuring that the information is held and used securely in accordance with this purpose, relevant legislation and this Information Sharing Agreement. The Chief Executive / designated officer of that organisation will be responsible for ensuring this takes place.

9. Breach of the agreement

Any breaches of this agreement by a partner or a third party organisation processing data for a partner must be reported to the providing partner as soon as the breach is recognised.

Both requesting and providing partners must carry out a full investigation with the assistance of an independent agency if required. This may include notification to the Information Commissioner. Notification is the responsibility of the agencies Chief Executive or designated officer.

If a member of staff breaches confidentiality then the relevant partner organisation will undertake an investigation and take appropriate action against their member of staff if necessary in accordance with that organisation's internal policies. Criminal offences committed under Data Protection Legislationand other legislation will be investigated and dealt with appropriately.

10. Who will handle the information?

Relevant members of staff authorised by the agencies signed up to this agreement. See Appendix A for list of designated officers.

11. How long will the information be kept?

Where a partner receives information under this ISA, they will retain the information for as long as this is necessary to achieve the purpose and in accordance with their agencies own Retention and Disposal Policy, which can be requested at any time by another partner.

12. How will the information be destroyed?

Destruction of information no longer required will be in accordance with the agency that holds the information's Retention and Disposal Policy; this should be in line with retention defined within Data Protection Legislation. Decisions on destruction may also be affected by the information suppliers own Retention and Disposal Policy.

13. What date will the information be shared? Initial date must be later that the date of the signatures below and should give an indication of subsequent dates for regular sharing.

This will commence from the date of the signatures of partner agencies and be reviewed within two years of commencement of this ISA.

14. What are the names, roles and contact details of any members of staff who will make sure that the required information is shared at the appropriate time?

Relevant members of staff authorised by the Chief Executive / designated officer of agencies signed up to this agreement. See Appendix A for list of designated officers.

15. When will this agreement be reviewed and by whom?

The Northamptonshire Safeguarding Children Board on behalf of agencies party to this agreement within two years of commencement of this ISA.

This agreement must be formally approved and signed by all parties and reviewed at least every 2 years. All parties will ensure that the ISA and any associated documents are known and understood by all staff involved in the process.

16. What happens with Subject Access Requests (SAR) are made to the NSCB?

The NSCB only holds information centrally on children and young people if they have died or are subject to a serious case review. On these occasions this information is a snapshot at a period of time and will not form

a record of that child's involvement with agencies. Should the NSCB receive a SAR this will be sent to the relevant agencies for a response.

If an individual agency received a SAR for information from across the partnership they should respond to the requester advising them to contact other agencies directly to make the request.

17. Indemnity

Each partner organisation will keep each of the other partners fully indemnified against any and all costs, expenses and claims arising out of any breach of this agreement and in particular, but without limitation, the unauthorised or unlawful access, loss, theft, use, destruction or disclosure by the offending partner or its sub-contractors, employees, agents or any other person within the control of the offending partner of any personal data obtained in connection with this agreement.

Appendix A
Designated Officers

Name Of Organisation	Name of Officer	Position	Telephone No.	Role
Rainsbrook Secure Training Centre	Cindy Brewster	Deputy Director/Head of Resettlement	01788 528810	Designated Officer
Daventry District Council	Ian Vincent	Chief Executive	01327 302436	Head of Paid Service
Borough Council of Wellingborough	Gill Chapman	Principal Community Support Manager	01933 231839	Safeguarding contact
Borough Council of Wellingborough	Vicki Jessop	Principal Housing Manager	01933 231720	Statutory Local Housing Authority lead officer
Borough Council of Wellingborough	Maria Thomas	Community Safety Officer	01933 231927	ASB lead contact
Borough Council of Wellingborough	Lorraine Coleman	Senior HR Officer	01933 231523	Employee HR support
Borough Council of Wellingborough	Patricia McCourt	Senior Housing Officer	01933 231807	Homelessness and housing allocations lead contact
Borough Council of Wellingborough	Barbara Grimmitt	Executive Officer	01933 231501	Chief Executive's PA
Horizons	Kathy McCosker	Team Leader (South, SEN &MI)	01604 614929	Data Protection Officer
Horizons	Matt Croxon	Service Manager	01604 614914	Service Manager
NHS Nene CGG	Tracy Keats	Assistant Director of Safeguarding	01604 651628	Assistant Director of Safeguarding
NHS Corby CGG	Tracy Keats	Assistant Director of Safeguarding	01604 651628	Assistant Director of Safeguarding
East Northamptonshire Council	Sharn Matthews	Executive Director and Monitoring Officer	01832 742108	
East Northamptonshire Council	Mike Greenway	Community Partnerships Manager	01832 742244	

East Northamptonshire Council	Kirsty Squires	Information Governance Officer	01832 742229	
Northampton General Hospital NHS Trust	Dr Sonia Stewart	CEO	01604 545868	Chief Executive

APPENDIX B

Principles for Action

Information sharing is vital to safeguarding and promoting the welfare of children and young people. A key factor in many serious case reviews has been a failure to record information, to share it, to understand its significance and then take appropriate action.

Government guidance, Every Child Matters, "Information Sharing: Guidance for practitioners and managers", (2008) highlights seven golden rules for information sharing:

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

Sharing Information: Questions for staff to ask?

Is there a clear and legitimate purpose for sharing information?

Under Section 11 of the Children Act 2004 key people and bodies have the duty to make arrangements which ensure their functions are discharged with regard to the need to safeguard and promote the welfare of children. This extends to the member agencies of the NSCB and the services they commission. Information sharing is fundamental for complying with this statutory regulation.

Information sharing for statutory and non-statutory services must comply with laws relating to confidentiality, data protection and human rights.

Consent is not required from the subject of the information when an agency is required by law to share information or when a court makes an order for certain information or case files to be made available to the court. Such situations do not arise often but when they do practitioners must share information. A court order may be challenged by your organisation but all other situations must be complied with by practitioners.

Exceptions to the requirement to consent:

As a general rule personal information shared in confidence should not be used or disclosed further without the consent of the individual.

Exceptions to the requirement for consent are rare and limited to legal requirements to disclose information, e.g. by Acts of Parliament or court orders; disclosures permitted by regulations made under section 251 of the NHS Act 2006, (previously known as section 60 of the Health and Social Care Act 2001), or where there is a public interest justification for breaching confidentiality such as a serious crime, including murder, rape or child abuse.

Does the information enable a living person to be identified?
Information which has been made anonymous can be shared. However, information which identifies an individual, or could identify a person living when considered with other information is personal information and is subject to data protection.

Is the information confidential?
Not all information is confidential. Confidential information is data of some sensitivity which is not already lawfully in the public domain or readily available from another public source and has been shared in a relationship where the person giving the information understood that it would not be shared with others.

Information which is not confidential may generally be shared where necessary for the legitimate purposes of statutory and preventative work.

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

Information can be lawfully shared, even if this has not been authorised, if this can be justified in the public's interest. For example, to protect a child or someone else from harm or to promote the welfare of a child or to prevent crime and disorder.

Who do you owe confidentiality to?
The duty of confidentiality is owed to the individual to whom the information relates and to the person who has provided the information on the understanding it is to be kept confidential.

Do you have consent to share?
As a matter of good practice practitioners should inform children, young people and families about their service's policy on how information will be shared and seek their consent. If there is significant change in the way the information is to be used, or a change in the relationship between the agency and the individual, consent should be sought again. It must be remembered that individuals have a right to withdraw or limit consent at any time.

Informed consent means that the person giving consent needs to understand why information would be shared, who will see their information, what it will be used for and the implications of sharing that information. We seek to promote a climate of openness and honesty with children and families where, in the main, informed consent is obtained at the start of intervention in children's lives and gained again where circumstances alter, for example where an agency wishes to make a referral of a child with additional needs or a child in need to another agency.

Whose consent should be sought?

Seeking consent can at times pose difficult dilemmas. The principle should always be one of openness with both parents and children. Practitioners, wherever possible, should seek to gain the consent of parents and children. Adults (but also young people over the age of 16) are presumed to have capacity to give or withhold their consent to sharing of confidential information, unless there is evidence to the contrary under the Mental Capacity Act 2005.

A child, who is able to understand and make their own decisions, is able to give or refuse consent to share information. Every case should be assessed to gauge a child's understanding of consent explaining the information to the child in a way which is suitable for the child's age and likely understanding and through using their preferred method of communication.

Capacity to give consent is a "functional test" and is not dependant on age. Generally children aged over 12 may be expected to have sufficient understanding. However, younger children may also have enough understanding while some older children will not. When assessing children for "sufficient understanding" practitioners should consider whether the child has a reasonable understanding of what information might be shared, the main reason(s) for sharing it and the implications of sharing or not sharing the information. Practitioners should address whether a child can:

- appreciate and consider the alternative courses of action open to them
- weigh up one aspect of the situation against another
- express a clear personal view on the matter, as distinct from repeating what someone else thinks they should do
- be reasonably consistent in their view on the matter, are they constantly changing their mind?

Where a child cannot consent one person with parental responsibility should be asked to consent on behalf of the child. In these circumstances it remains important that practitioners seek the child's views as far as possible. When seeking parental consent, practitioners should ensure proper consideration is given to whose consent to seek. For example where parents are separated consent should be sought from the parent with whom the child resides.

Where a child is able to give informed consent the practitioner must consider their consent or refusal even where a parent disagrees. In such circumstances the practitioner must encourage the child to discuss the issue with their parents and agree how this will be managed. Practitioners must not withhold any service on the condition that parents are informed.

When consent should not be sought

Wherever possible practitioners should seek consent to share information at their first contact whenever they are concerned about a child with additional needs, a child in need or a child in need of protection. There may however be some circumstances where they should not seek consent initially but even so should obtain consent when it is appropriate to do so.

For example if doing so would:

"place a person (the individual, family member, yourself or a third party) at increased risk of significant harm if a child, or serious harm if an adult; or

prejudice the prevention, detection or prosecution of a serious crime; or

lead to an unjustified delay in making enquiries about allegations of significant harm to a child, or serious harm to an adult"

Partner Information Sharing Memorandum of Understanding – can be found here

Can I share information when I cannot obtain consent or consent is refused?

Where information is confidential and consent is refused, that should be respected unless in the practitioner's professional judgment on the facts of the case, there is justification for sharing information.

Where consent cannot be obtained to share information or consent is refused or where seeking it may undermine the prevention, detection, or prosecution of a crime the practitioner must judge from the facts whether there is enough public interest. A concern in relation to protecting a child from significant harm, promoting the welfare of children, protecting adults from serious harm or preventing crime and disorder are all well within public interest.

Sharing confidential information without consent will normally be justified in the public interest:

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

Practitioners must decide whether sharing information is a necessary and proportionate response to the need to protect the child in question. The decision making process must weigh up what might happen if the information is shared against what might happen if it is not shared. It is important to note that a lack of information sharing is a consistent theme within Serious Case Reviews.

What information may be shared?

It is necessary to show proportionality when information is shared i.e. that a fair balance has been struck between the individual rights of the person and the relevant justification.

APPENDIX C

This appendix provides specific information regarding the purposes for sharing information mentioned in Section 3.

Section 47 Child Protection and Section 17 Children in need
Whilst it is good practice to share with families your intention to make a referral to Children's Social Care about their child's welfare, it is not a prerequisite.

In some circumstances you should not inform the family about the referral. For example where evidence of abuse is likely to be removed or where a child will be placed at increased risk when parents have this knowledge.

Children's Social Care will accept a referral about a child regardless of whether consent has been given.

Children's Social Care will firstly assess the child to see if the child is in need (Section 17, Children Act 2004) of a service and or is in need of protection (Section 47, Children Act 2004).

Information must be collected from agencies who know the child for these decisions to be made and consent is not required for this activity. These are statutory requirements under the Children Act and thus covered by the Data Protection Act 1998, Schedules 2 and 3.

Consent is needed for a service to be offered. So where a child is clearly a “child in need” of a service then the first action for Children's Social Care must be to obtain consent, unless of course it has been obtained earlier in the process.

When a child is assessed as in need of protection then consent to share information between agencies remains desirable but is not essential. The safety of the child is paramount.

Information sharing for the purposes of preventing or detecting crime
Section 29 Data Protection Act 1988.

Personal data processed for any of the following purposes

a) the prevention or detection of crime
b) the apprehension or prosecution of offenders
c) the assessment or collection of any tax or duty or of any imposition of a similar nature, are exempt from the first data protection principle (except to the extent to which it requires compliance with the conditions in Schedules 2 and 3) and section 7 in any case to the extent to which the application of those provisions to the data would be likely to prejudice any of the matters mentioned in this subsection

Personal data which:

a) is processed for the purpose of discharging statutory functions, and
b) consists of information obtained for such a purpose from a person, who had it in his possession for any of the purposes mentioned in subsection (1), are exempt from the subject information provisions to the same extent as personal data processed for any of the purposes mentioned in that subsection.

Personal data are exempt from the non-disclosure provisions in any case in which
a) the disclosure is for any of the purposes mentioned in subsection (1), and
b) the application of those provisions in relation to the disclosure would be likely to prejudice any of the matters mentioned in that subsection

Personal data in respect of which the data controller is a relevant authority and which

a) consists of a classification applied to the data subject as part of a system of risk assessment which is operated by that authority for either of the following purpose:
b)
    1. the assessment or collection of any tax or duty or any imposition of a similar nature, or
    2. the prevention or detection of crime, or apprehension or prosecution of offenders, where the offence concerned involves any unlawful claim for any payment out of, or any unlawful application of, public funds, and
c) are processed for either of those purposes, are exempt from section 7 to the extent to which the exemption is required in the interests of the operation of the system

In subsection (4) — "public funds" includes funds provided by any [F1 EU] institution; "relevant authority" means:

a) a government department
b) a local authority
c) any other authority administering housing benefit or council tax benefit

Serious Case Reviews
Regulation 5 of the Local Safeguarding Children Boards Regulations 2006 sets out the functions of LSCBs. This includes the requirement for LSCBs to undertake reviews of serious cases in specified circumstances. Regulation 5(1) (e) and (2) set out an LSCB's function in relation to serious case reviews, namely:

5(1) (e) undertaking reviews of serious cases and advising the authority and their Board partners on lessons to be learned.
(2) For the purposes of paragraph (1) (e) a serious case is one where:

(a) abuse or neglect of a child is known or suspected; and
(b) either - (i) the child has died; or (ii) the child has been seriously harmed and there is cause for concern as to the way in which the authority, their Board partners or other relevant persons have worked together to safeguard the child

Child Sexual Exploitation (CSE)

Sexual exploitation of children and young people under 18 involves exploitative situations, contexts and relationships where young people (or a third person or persons) receive 'something' (e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money) as a result of them performing, and/or another or others performing on them, sexual activities. Child sexual exploitation can occur through the use of technology without the child's immediate recognition; for example being persuaded to post sexual images on the Internet/mobile phones without immediate payment or gain. In all cases, those exploiting the child/young person have power over them by virtue of their age, gender, intellect, physical strength and/or economic or other resources. Violence, coercion and intimidation are common, involvement in exploitative relationships being characterised in the main by the child or young person's limited availability of choice resulting from their social/economic and/or emotional vulnerability.

Female Genital Mutilation (FGM)

FGM is a form of child abuse and violence against women and girls, and therefore should be dealt with as part of existing child and adult protection structures, policies and procedures.

Further details regarding FGM can be found in the Government Multi-Agency Practice Guidelines for FGM are available here.

Private Fostering

NSCB Procedures 4.12: Children Living Away from Home

A private fostering arrangement is essentially one that is made without the direct involvement of a Local Authority for the care of a child under the age of 16 (under 18 if disabled) by someone other than a parent or close relative for 28 days or more. A close relative is defined as "a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by marriage or civil partnership) or step-parent.

Becoming aware that a child is being privately fostered requires vigilance by practitioners. Teachers, health (particularly GPs and Health Visitors) and other professionals should notify the appropriate Duty Team of a private fostering arrangement that comes to their attention, where they are not satisfied that the arrangement has been or will be notified. The family are to be advised to notify the local authority about the arrangement.

Early Help/Support

The concept of early help and prevention reflects the widespread understanding that it is better to identify and deal with problems early rather than to respond when difficulties have become acute and require action by more intensive services.

The purpose of early help and prevention is to improve outcomes for children and young people at all stages of their development - from pre-birth, through the early years stage, throughout their school careers and on into their transition to adulthood. Difficulties may emerge at any point throughout childhood and adolescence.

Early help and prevention is about how universal and targeted services are coordinated to identify, reduce and prevent specific problems from getting worse or becoming entrenched. Early help and prevention gives families the opportunity to address their problems; ensuring children stay safe and achieve their full potential.

Signed consent is required when referring for Early Support/EHA.

The documents completed for referral to Early Support/EHA services are to make clear the following:

- That the information individuals consent to being shared will be treated as confidential and will not be shared without their agreement and consent unless there is a need to by law to either (a) prevent harm occurring or; (b) to prevent the law being broken
- The signatory is to include information that reflects the following statement:

  'I have had the reasons for Early Support/EHA explained to me and I understand those reasons. I agree to my information being shared in order that the work can take place and services to help and support me can be provided. The information will not be used for any other purpose'
- Where consent for Early Support is refused, professionals are to continue to support and assess to determine whether without the provision of early support the child/children's circumstances will meet the criteria for child in need or child protection.

APPENDIX D

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Principles behind Sharing

Seventh Caldicott Principle

"The duty to share information can be as important as the duty to protect patient confidentiality"

Health and Social Care (Safety and Quality) Act 2015

Seven Golden Rules

1. The data protection act is not a barrier to sharing but provides a framework.
2. Explain to the person whose data is to be shared (unless unsafe or inappropriate to do so), what will be shared, the purpose of sharing and to whom the information will be provided.
3. Seek advice in case of doubt, without disclosing the identity of the person if possible.
4. Share with consent; unless in the public interest, when you may share even if consent is withheld.
5. Base your decisions on the safety and well-being of all concerned.
6. Comply with the data protection act when sharing information.
7. Keep a record of your actions and the justification for sharing or not sharing.

Sharing Information Legally

Information about a patient can only be shared legally if at least one of the following applies

A. Implied consent
B. Explicit consent
C. Best interest of a patient who does not have capacity
D. Required by law or approved by statute
E. The disclosure is justified in the public interest

Each one is discussed in more detail below with examples. Information can be shared in D. and E. even if consent is withheld.

Implied Consent

Consent can be taken as implied providing **ALL** the following apply

1. Sharing information is to provide, or support, the individual patient's direct care.
2. Written advice on data use and their right to object is readily available to the patient.
3. You have no reason to believe the patient has objected.
4. Anyone you disclose to understands that this is in confidence.

Implied consent is the basis on which members of the primary care team access clinical records to provide care. It can extend to social workers, providing it is for direct care and in the patient's best interests.

The information sharing policy can be provided in a patient leaflet and/or on the practice website.

Explicit Consent

This can be verbal or written. Explicit consent should set out what information is to be shared, with whom and for what purpose.

Best Interest Decision

You must share relevant information with anyone who is authorised to make health and welfare decisions on behalf of a patient who lacks capacity. For example:

- *welfare attorney*
- *court-appointed deputy or guardian*
- *an independent mental capacity advocate*
- *independent mental health advocate (in some circumstances)*

When you must decide about disclosure, for example to a relative or carer, follow this advice

- make the care of the patient your first concern
- respect their dignity and privacy
- document the reason e.g. to assess the overall benefit of an intervention
- defer disclosure if capacity is likely to be regained in a timely manner

Required by Law or Statute

You must disclose information if it is required by statute, for example:

- *the notification of infectious diseases*
- *the prevention of terrorism*
- *the investigation of road accidents*

The courts, both civil and criminal, have powers to order disclosure of information in various circumstances. If you do not understand the basis for this, you should ask the court or a legal adviser to explain it to you, before disclosure.

Public Interest

Disclosing personal information may be justified in the public interest if failure to do so may expose others to a risk of death or serious harm. For example:

- For the prevention, detection or prosecution of a serious crime e.g. child abuse.
- Multi-agency public protection arrangements (MAPPA) to protect public from violent and sex offenders.
- Genetic information which may have serious health consequences for a relative where early intervention would reduce harm.
- Requests for information needed for serious case reviews and domestic homicide reviews.

How to Share Information

To comply with the data protection act disclosure must be:

1. **Relevant** to legitimate purpose
2. **Proportionate** in breadth and depth
3. **Share** with those who need to know
4. **Factual** not opinion
5. **Accurate** and up to date
6. **Timely** according to urgency
7. **Securely** agreed process, with receipt

Access to Records

Subject Access Requests

- Patients are entitled to see their own records under the data protection act.
- GPs are data controllers and have the right to deny access to information which could be potentially harmful to the patient.
- Be aware, an adult survivor of sexual abuse may not remember events detailed in their early records, hence a request to see their records needs careful consideration by the GP.

Children's Access Rights

- Children have the same legal right to see their own records as adults.
- However, the GP must decide what access to provide in their best interests.
- This will depend on the content of any information and maturity of the child.

Parental Access Requests

- A parent can only see their child's records if the child gives consent.
- Children can usually consent from age 11 but a case by case decision should be made.
- If the child is unable to consent due to age or capacity or complexity, then the GP should share relevant information with parents based on a best interest decision.
- The GP may decide not to share some information if disclosure is likely to cause harm. For example, in the case of a parent requesting information from their child's records, to try and discredit their ex-partner in a custody battle; disclosure in this situation is unlikely to be in the best interests of the child.

Third Party Information

- Third party information should be redacted to protect the confidentiality of the third party, when the patient views their own health record, or a report is prepared for an outside agency.
- When a person is referred for health or social care, only the minimum necessary third party information should be provided, as is necessary to protect the patient from harm e.g. first-degree family history of diabetes.
- If in doubt, seek consent from the third party for disclosure of their information.

Third Party Disclosure

Consent

When another agency shares or requests information they should:

a) Inform the GP whether consent has been obtained from the person affected.
b) Where consent has not been obtained, a valid reason must be given.
c) Indicate their concerns and reason for sharing or requesting.
d) Advise whether the information can be safely shared with the person it relates to.
e) Indicate the timescale for response and how the requested information should be provided.

Requests by Social Services

- The GP must decide if there are reasonable grounds to consider that the child/vulnerable adult may be at risk of significant harm and/or that a crime may have been committed.
- This might be from their own observations, or other sources e.g. social services have received a referral from school and have contacted you for further information.
- For children, you may not be able to obtain consent because parents refuse or are not contactable within the timeframe concerned.
- Social care need to give enough information so that the clinician can judge if the child may be at risk of significant harm and decide what disclosure is relevant and proportionate.
- Sharing without consent, or if consent is withheld, is reasonable if required to protect a person from significant harm, or to prevent or investigate a serious crime affecting a person.

Requests by Police Officers

- The police are responsible for assessing the risk posed by a member of the public who is armed with, and has used, a gun or knife in a violent attack.
- The police should be informed immediately if a patient presents with a gunshot wound, even if the cause was the accidental discharge of a lawfully held gun.
- The same is true of an assault using a knife or sharp weapon.

- Police officers are entitled in law to be told the name and address of a patient who has been involved in a road traffic accident.
- Disclosure of information in other circumstances, is reasonable for the prevention or investigation of a serious crime, even if consent is withheld.

Section 251 of the NHS Act 2006

The statute allows disclosure of patient information without seeking consent in situations where it is not practical to obtain consent and anonymised information cannot be used. For example:

- cancer registries
- control or prevention of communicable diseases

Section 251 **cannot** be used as a reason to disclose information for the direct care of an individual patient.

Disclosure after Death

Your duty of confidentiality continues after a patient has died. Disclosure of relevant information is permitted in the following circumstances:

- When disclosure is required by law
- To help a coroner with an inquest or fatal accident inquiry
- On death certificates
- When disclosure is necessary to meet a statutory duty of candour
- When someone close to a patient asks for information about the circumstances of that patient's death, and you have no reason to believe the patient would have objected to such a disclosure.

Sharing to Learn

Clinical Audit

Audit within the primary care team can be undertaken based on implied consent providing

- using anonymised information is not practicable, and
- information available to the patient explains the purpose of audit and their rights, and
- the patient has not objected.

This covers prescribing advisors and other NHS staff who have a legitimate role in quality assurance.

Multi-Agency Audits

Multi-Agency Audits which are initiated by the Northamptonshire Safeguarding Boards, are concerned with themes and aim to demonstrate the strengths and weaknesses of inter-agency collaboration. In these reviews the sharing of relevant **anonymised** data is appropriate but not patient identifiable information.

Serious Case Reviews

- Serious case reviews are initiated by Northamptonshire Safeguarding Boards as part of their statutory duties, and are concerned with incidents involving serious harm or death of a child or adult.
- The NSCB or NSAB are tasked with reviewing the antecedent involvement of all agencies with a duty of care to the index person.
- The review culminates in a report containing a summary of learning / action points for each agency to reflect on and adopt.
- Nene CCG have devised and agreed that consent to share information will be recorded on a standard template completed by the safeguarding boards and provided to the GP practice.
- Only information relevant to the remit of the serious case review should be provided by the practice.

- The safeguarding team usually assist in data collection, and will write a summary report which forms part of the case review. The safeguarding team will discuss and agree the report before submission.

Record Keeping

Safeguarding Reports

1. Information provided to the practice appropriately, about a patient should be recorded in the patients records and not kept separately on the grounds of its sensitivity.
2. Information provided to the practice inappropriately should be deleted/shredded and the governance issue raised with the sender.
3. Safeguarding reports should only be added to the health record of the patient who is directly affected. This applies equally to reports about children and adults.
4. Sensitive data about a third-party should not be added, unless this is necessary to safeguard the individual, whose record is receiving the information.
5. Where a report contains information about a third party, this should be noted in the document title or descriptor, to warn the clinician, and prevent an inadvertent data breach in the future.
6. Consider making sensitive safeguarding documents private, so that only authorised staff and health professionals, can access their content, and to prevent accidental disclosure during a consultation.

For example: a case conference report is received about the neglect of 4 children within a family. One of the children has also been subject to sexual abuse. The sections of the report dealing with neglect should be added to all the children's records and to the parent's records. The part of the report dealing with sexual abuse should only appear in the affected child's record.

Read Codes and Flags

1. It is good practice to add relevant read codes which arise from medical and social reports, thus creating a summary of important health problems and welfare issues.
2. Read coding should be consistent and accurate.
3. Never use a read code which implies the existence of a condition, status or situation, unless this is known to be true beyond reasonable doubt.
4. Where there is doubt, then this should be reflected by using a less-specific read code.
5. To provide additional context a comment can be associated with a code.
6. Comments must be relevant and true, and when referring to a third party, proportionate in detail.
7. It is important to add appropriate safeguarding read codes so that relevant risk flags are triggered.
8. Risk flags are a discrete way of making a clinician aware of safeguarding issues without alerting the person consulting or anyone who accompanies them.
9. Read codes that may cause distress to the patient, e.g. On sex offenders register, should still be added so that a flag is triggered, but consideration given to excluding them from the medical summary.

Recording Concerns

1. Where a circumstance affecting one person poses a potential risk of harm to another person, then this is a safeguarding concern.
2. This risk may arise because they live under the same roof or because they are in contact with one another outside of the home.
3. Confidentiality is not absolute, and can be breached in law when it is necessary to prevent or detect a crime against a person.
4. It is therefore reasonable that significant concerns about a third-party are flagged in the records of any at-risk individuals, where in the opinion of the clinician, this action is necessary to try and prevent that person from coming to harm.
5. The information about a third-party should only be what is required to achieve the purpose of safeguarding i.e. not excessive in detail.

For example: where a child has been subject to sexual abuse, a code such as "child abuse in family" should be added to the records of other siblings considered to be at risk. This is a proportionate third party disclosure, which will alert the clinician to review the records of other family members, if appropriate.

Safeguarding Read Codes

Abuse History

History of abuse
History of sexual abuse
History of emotional abuse
History of physical abuse

Abuse Risk

At risk of abuse (Sys1 only)
At risk of neglect
At risk of physical abuse
At risk of emotional abuse
At risk of sexual abuse
At risk of sexual exploitation
At risk for self neglect
At risk of financial abuse
At risk of organisational abuse
At risk of discriminatory abuse
At risk of slavery
At risk of human trafficking
At risk of forced labour
At risk of domestic servitude

Abuse Suspected

Suspected child abuse
Suspected non-accidental injury to child
Suspected victim of child neglect
Suspected sexual abuse of child

Abuse Victim

Victim of child sexual exploitation
Victim of neglect and acts of omission
Victim of sexual abuse
Victim of physical abuse
Victim of emotional abuse
Victim of financial abuse
Victim of organisational abuse
Victim of discriminatory abuse
Victim of modern slavery
Victim of human trafficking
Victim of forced labour
Victim of domestic servitude
Victim of forced marriage (Sys1 only)

Alleged Perpetrator

Alleged perpetrator of abuse or violence (Sys1 only)
Alleged perpetrator of domestic violence
Alleged perpetrator of physical abuse
Alleged perpetrator of emotional abuse
Alleged perpetrator of sexual abuse

Child Abuse

Child neglect
Physical child abuse
Emotional abuse of child
Sexual abuse of child

Concerns for Adult & Family

Adult safeguarding concern
Alcohol misuser in household
Paternal alcohol abuse
Maternal alcohol abuse
Drug misuser in household
Paternal drug misuse
Maternal drug misuse
Both parents misuse drugs
Vulnerable elderly person
Concerns for Family
Family is cause for concern
Vulnerable family (Sys1 only)

Concerns for Child

Child is cause for concern
Child is cause for safeguarding concern
Unborn child is cause for safeguarding concern
Constantly crying baby
Vulnerable child in family
Child at Risk
Child in Need
Child abuse in the family
Has child subject of child protection plan
Family member subject to a child protection plan

Domestic Abuse

At risk of domestic violence
History of domestic abuse
Domestic abuse victim in household
Victim of domestic abuse (Sys1 only)
Victim of honour based violence
Alleged perpetrator of domestic violence
Routine enquiry about domestic abuse
Advice about domestic abuse
Referral to domestic abuse agency
Domestic abuse counselling (Sys1 only)
Notification received of alleged domestic violence in household (Sys1 only)
Police domestic incident report received
DASH 2009 Risk Checklist - initial risk classification
Subject of multi-agency risk assessment conference

End of Concern

No safeguarding issues identified
Adult no longer safeguarding concern
Child no longer in need
Child no longer safeguarding concern
No longer on child protection plan
Family member no longer subject of a child protection plan
Unborn child is no longer cause for safeguarding concern (Sys1 only)
Family no longer cause for concern

Family Status

Single parent family, mother present
Single parent family, father present
Partner unemployed
H/O: cot death in family
Child attends special school

Female Genital Mutilation

Female genital mutilation
At risk of female genital mutilation
History of FGM (female genital mutilation)
Family history of FGM (female genital mutilation)
No family history of female genital mutilation
Discussion about FGM (female genital mutilation)
Discussion about health implications of female genital mutilation

Legal Status

Subject of court care proceedings under Children Act 1989
Subject to interim supervision order under Children Act 1989
Subject to supervision order under Children Act 1989
Subject to interim care order under Children Act 1989
Subject to care order under Children Act 1989
Court case pending
Member of family in prison (Sys1 only)
Husband in prison
On sex offenders register
Subject of multi-agency public protection arrangements

Looked After Child

Child in care
Looked after child
Child in residential care
Child in private foster care
Child lives with another relative
Child leaving care
Fostering medical examination
Looked after child review meeting
Looked after child initial health assessment
Looked after child health assessment 6 month review
Looked after child health assessment annual review
Looked after child sexual health risk assessment completed
No longer subject of looked after child arrangement

Mental Capacity

Assessment of mental capacity in accordance with Mental Capacity Act 2005
Lacks capacity to give consent (Mental Capacity Act 2005)
Referral to IMCA (independent mental capacity advocacy) service (Sys1 only)
Independent mental capacity advocate instructed
Has ADRT (advance decision to refuse treatment) (Mental Capacity Act 2005)
Has ADRT (advance decision to refuse treatment) for life sustaining treatment (Mental Capacity Act 2005)
Best interest decision made on behalf of patient (MCA 2005)
Has advance statement (Mental Capacity Act 2005)

Safeguarding Procedures

Referral to safeguarding children team
Referral to safeguarding adults team
Child protection investigation
Social services case conference
Report received from social services
Child subject of a child protection plan
Safeguarding adults protection plan completed
Social worker involved
Refer to social worker
Seen by Social Worker