

**CALDERDALE SAFEGUARDING CHILDREN BOARD**

# **INFORMATION SHARING GUIDANCE**

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**FOR PRACTITIONERS**



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# Calderdale Information Sharing Guidance

## 1. Introduction

This procedure should be read in conjunction with HM Government 'Working Together 2015' and 'Information Sharing: Advice for Practitioners providing Safeguarding services to children, young people, parents and carers' (March 2015).

A key factor in many Serious Case Reviews has been a failure to record information, to share it, to understand the significance of the information shared, and to take appropriate action in relation to known or suspected abuse or neglect. Often it is only when information from a number of sources has been shared that it becomes clear that a child is at risk of, or is suffering, harm.

Effective sharing of information between professionals and local agencies within Calderdale and across borders is essential for effective identification, assessment and service provision.

Working Together 2015, notes:

"Fears about sharing information cannot be allowed to stand in the way of the need to promote the welfare and protect the safety of children...." And

"Early sharing of information is the key to providing effective early help where there are emerging problems."

## Legal Principles and Obligations

In addition to the statutory guidance following from the Children Act 2004, the key legal concepts, legislation and terminology relevant to information sharing are contained in:

- The Data Protection Act 1998;
- The Human Rights Act 1998;
- The common law duty of confidence<sup>1</sup>.

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<sup>1</sup> The general position is that if information is given in circumstances where it is expected that a duty of confidence applies, that information cannot normally be disclosed without the information provider's consent.

In practice, this means that all information, whether held on paper, computer, visually or audio recorded, or held in the memory of the professional, must not normally be disclosed without the consent of the service user. It is irrelevant for example how old the service user is, or what the state of his/her mental health is; the duty still applies.

Three circumstances making disclosure of confidential information lawful are:

- where the individual to whom the information relates has consented;
- where disclosure is necessary to safeguard the individual, or others, or is in the public interest; or
- where there is a legal duty to do so, for example a court order.

## 2. Agency Responsibility Under The Children Act 2004

The statutory guidance on Section 11 of the Children Act 2004 states that in order to safeguard and promote children's welfare, the agencies covered by Section 11 should make arrangements to ensure that:

- All professionals in contact with children understand what to do and the most effective ways of sharing information if they believe that a child and family may require particular services in order to achieve positive outcomes;
- All professionals in contact with children understand what to do and when to share information if they believe that a child may be a Child in Need, including those children who have suffered, or are likely to suffer significant harm;
- Appropriate agency-specific guidance is produced to complement guidance issued by central government, and such guidance and appropriate training is made available to new staff as part of their induction and ongoing training;
- Guidance and training specifically covers the sharing of information between professions, organisations and agencies, as well as within them, and arrangements for training take into account the value of multi-agency as well as single agency training;
- Managers in Children's Services are fully conversant with the legal framework and good practice guidance issued for professionals working with children.

The statutory guidance on Section 10 of the Children Act 2004 makes it clear that effective information sharing supports the duty to cooperate to improve the well-being of children.

Local authorities and their partner agencies should ensure that their employees:

- Are supported in working through these issues;
- Understand what information is and is not confidential, and the need in some circumstances to make a judgement about whether confidential information can be shared in the public interest, without consent;
- Understand and apply good practice in sharing information at an early stage as part of preventative work;
- Are clear that information can normally be shared where a child is judged to be at risk of Significant Harm or that an adult is at risk of serious harm.

Agencies should:

- Each appoint a senior manager, a lead information officer, responsible for decisions relating to information sharing within the agency, who can determine controversial issues;

- Develop common documentation, systems and a joint approach to multi-disciplinary and multi-agency information sharing;
- Encourage children and their parents to see information sharing in a positive light, as something which makes it easier for them to receive the services they need.

Further, 'Information Sharing: Advice for Practitioners providing Safeguarding services to children, young people, parents and carers' 2015 states:

*All organisations should have arrangements in place which set out clearly the processes and the principles for sharing information internally. In addition, these arrangements should cover sharing information with other organisations and practitioners, including third party providers to which local authorities have chosen to delegate children's social care functions, and the Local Safeguarding Children Board (LSCB). One approach to aid effective information sharing is the use of Multi-Agency Safeguarding Hubs, where teams may be co-located physically or locally. In these settings, it is important that accountability is defined to ensure that teams know who is responsible for making decisions and that actions taken are in the best interest of the child.*

*Every LSCB should play a strong role in supporting information sharing between and within organisations and addressing any barriers to information sharing. This should include ensuring that a culture of appropriate information sharing is developed and supported as necessary by multi-agency training.*

*In addition, the LSCB can require an individual or body to comply with a request for information, as outlined in section 14B of the Children Act 2004. This can only take place when the information requested is for the purpose of enabling or assisting the LSCB to perform its functions. Any request for information about individuals should be necessary and proportionate to the reason for the request. LSCBs should be mindful of the burden of requests and should explain why the information is needed.*

### **3. Seven Golden Rules For Information Sharing**

HM Government 'Information Sharing: Advice for Practitioners providing Safeguarding services to children, young people, parents and carers' provides seven golden rules for Information Sharing:

- *Remember that the Data Protection Act is not a barrier to sharing information but provides a framework to ensure that personal information about living persons is shared appropriately;*
- *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, 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.*

#### **4. Sharing Information Where There Are Concerns About Significant Harm – Tier 5**

When professionals who work with, or have contact with children, parents or adults who are in contact with children, have reasonable cause to suspect that a child may be suffering or may be at risk of suffering Significant Harm, they should always share information with Calderdale Children's Social Care (MAST)<sup>2</sup>.

While, in general, professionals should seek to discuss any concerns with the family and, where possible, seek their agreement to making referrals to MAST, there will be some circumstances where professionals should not seek consent e.g. where to do so would:

- Place a child at increased risk of Significant Harm;
- Place an adult at risk of serious harm;
- Prejudice the prevention or detection of a serious crime;
- Lead to unjustified delay in making enquiries about allegations of Significant Harm.

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<sup>2</sup> Multi-Agency Screening Team

In some situations there may be a concern that a child has suffered, or is likely to suffer Significant Harm or of causing serious harm to others but professionals may be unsure whether what has given rise to concern constitutes 'a reasonable cause to believe'. In these situations, **the concern must not be ignored.**

Professionals should always take to their agency's nominated child protection adviser and, if necessary, a Caldicott Guardian who will have expertise in information sharing issues. **The child's best interests** must be the overriding consideration in making any decisions whether or not to seek consent.

Significant Harm to children can arise from a number of circumstances; it is not restricted to cases of deliberate abuse or gross neglect. A baby who is severely failing to thrive for no known reason could be suffering Significant Harm but equally could have an undiagnosed medical condition. If the parents refuse consent to further medical investigation or an assessment, professionals are still justified in sharing information for the purpose of helping ensure that the cases of the failure to thrive are correctly identified. A professional is likely to be justified to share information without consent for the purposes of identifying a child for whom preventative interventions are appropriate.

Similarly, serious harm to adults is not restricted to cases of extreme physical violence. The cumulative effect of repeated abuse or threatening behaviour, or the theft of a car for joy riding, may well constitute a risk of serious harm.

## **5. Sharing Information Where the Child is a Child in Need – Tier 4**

If it is known that a child who is subject of a Child in Need plan in Calderdale has moved or is intending to move to another local authority, a referral and relevant information should be made immediately to the Children's Social Care (CSC) team in the area into which the child has moved (the 'receiving Local Authority area'). This will include a Case Transfer Summary, copies of any Child in Need plans and recent minutes of related meetings.

The general expectation is that agreement is sought from the family regarding the referral and provision of information and they should be kept informed by the referring authority of the progress of case transfer.

Where agreement to make the referral and share information cannot be reached and there are historic or current child protection concerns, then the protection of the child is paramount and the referral must be made. If there are any doubts, advice is to be sought from legal services or the Caldicott Guardian.

The receiving authority should make a decision about the level of risk or need of the case within 15 days of the referral, from which point, case responsibility is

transferred. Where there is dispute about case responsibility or delay in the receiving authority accepting responsibility for the case, which is likely to impact on the child, the CSC escalation procedure should be used.

During any dispute the child's welfare remains paramount and the family must be presented with clear messages about services and expectations.

Any agency other than Social Care, that becomes aware of a child in their area who was/is a Child in Need from another area, should alert MAST that they are aware of the move. This responsibility is intended to provide assurance and act as a safeguard within local partnerships. This may be necessary where other agencies become aware of a child where no referral has been made from Social Care in the previous area due to timescales of the move or them not being informed as to the whereabouts of the family following a move.

If a Child in Need leaves for an unknown location Calderdale must consider issuing an alert subject to risk assessment.

## 6. Information Sharing In Specific Circumstances

### 6.1 Across Borders

At any stage in the process of working with children and their families, the parents and/or the child/children may move from one household to another, with a change of address possibly to another local authority area.

The move may be planned and relevant information shared in advance with the professionals and workers involved with the family and child/children.

In some circumstances, however, the move may take place in haste and as an attempt to avoid the involvement of professionals and agencies. In such circumstances, the agencies involved must assess the impact of the change in circumstances on the child/children.

Where children move to a new address - either within the same local authority area or to a new area – and there are concerns about the welfare of the children such that it is considered that a [Section 47 Enquiry](#) is required, the local authority for the last known address must make every effort to locate the children and complete the Section 47 Enquiry. See also [Children and Families who go Missing Procedure](#).

Professionals in all agencies should be alert to the possibility that a child or family who has moved may not be in receipt of universal services. Professionals should engage with the family in order to link them into local universal services, e.g.:

- Seeking information about the child / family (full names, dates of birth, previous address, GP's name, if attending any school etc);



The child's move may be temporary or permanent. If the parent is not prepared to give information or take advice, the receiving authority should assume the move is permanent and act accordingly.

The procedure to follow where there are concerns that a child may be suffering from or at risk of significant harm is covered in [Section 2 1.4.14 Children Moving Across Boundaries West Yorkshire procedures](#).

## **6.2 Children moving out of Calderdale who are supported at Level 2 or 3 of the Continuum of Need**

Agencies must also assess the impact of the change in circumstances on children who have been supported by a multi-agency Early Intervention plan (Level 3) in Calderdale. If the child is subject to a multi-agency Early Intervention plan, and the move out of area is planned, the agencies involved with the child and family should agree, with parental consent, how and when information is transferred and shared with the equivalent agencies in the receiving authority and their expectations of those agencies in continuing to support the family. This should be reflected in a SMART multi-agency plan.

If the move is unplanned, the agencies involved should hold a multi-agency meeting in order to discuss the change in circumstances and consider whether or not the needs of or risks to the child have increased. The outcome of this meeting should be recorded. If there is no increase in need or risk, the multi-agency Early Intervention plan should be updated and if parental consent has been given, agreement reached about how information will be shared with equivalent agencies in the receiving authority.

If no parental consent for transfer of information is given and there is no increase in risk or need, the universal agencies involved should ensure that their records are up-to-date and accurately reflect their involvement with the family, ensuring that their own records are forwarded to the receiving authority in a timely manner in accordance with their own procedures.

If any professional concludes that there is an increase in risk or unmet needs of the child and the child may be at risk of or suffering significant harm, a referral should be made to Children's Social Care in the receiving authority without delay.

If the whereabouts of the child and family is unknown and any professional concludes that there is an increase in risk to or unmet needs of the child and the child may be at risk of or suffering significant harm, a referral should be made to MAST.

### 6.3 Child Sexual Exploitation

The effective identification and recording of information and intelligence in relation to individual cases is crucial to the successful disruption and/or prosecution of perpetrators.

All people involved in caring for a child or young person who is suspected to be at risk of sexual exploitation or being sexually exploited should continually gather, record and share information with the appropriate authorities. The child sexual exploitation lead must work in partnership with their counterparts in other agencies to ensure that information and intelligence is recorded and shared appropriately. West Yorkshire Police have produced a [proforma](#) for this purpose.

Effective recording systems should be in place to enable information to be shared between agencies, support individual investigations and enable local areas to monitor and map sexual exploitation to identify specific problems and monitor trends.

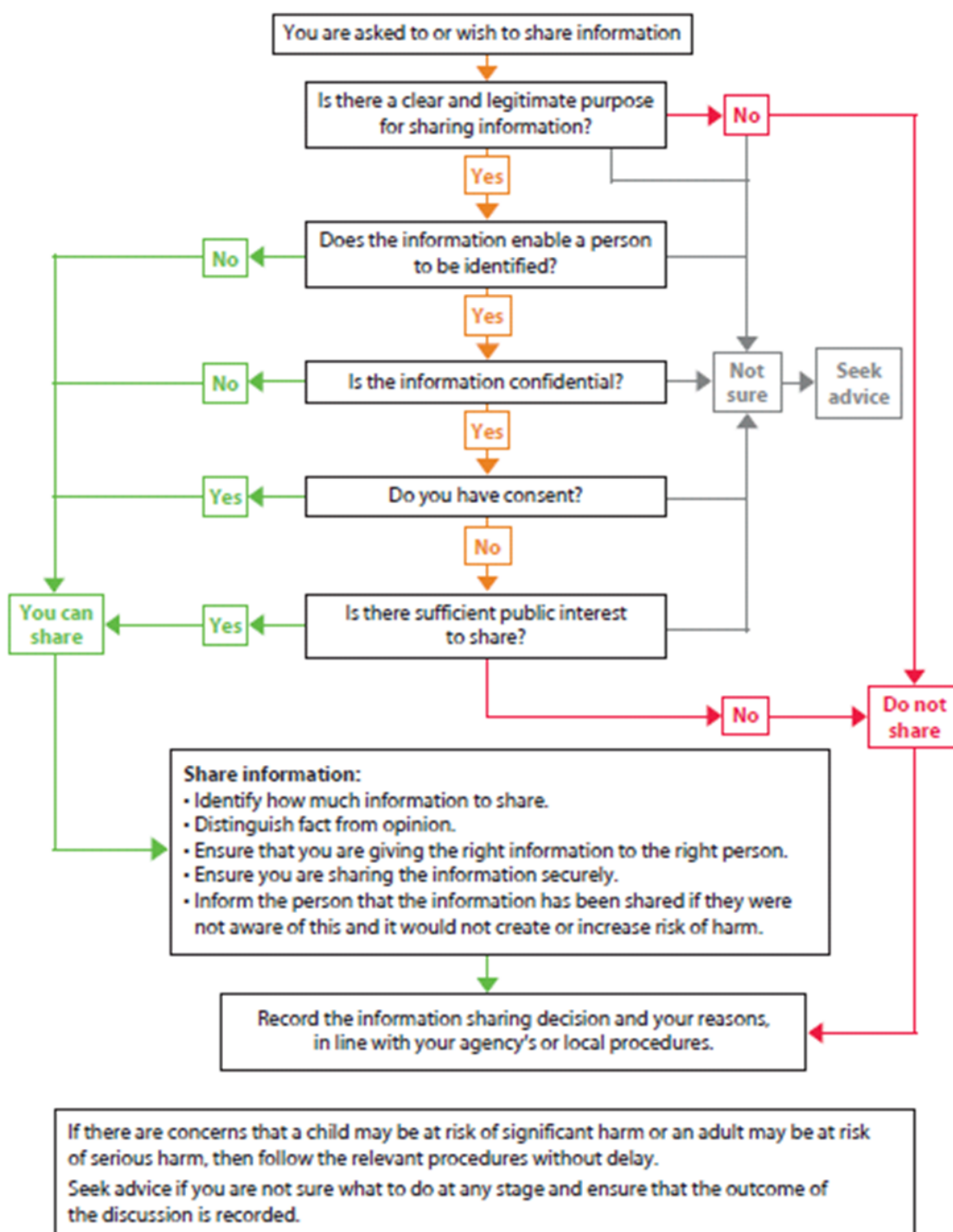
Also see Appendix Two

### 7. Professionals Meetings

In some cases, for example, where agencies are working with a family who are frustrating or resisting intervention, or where professionals are 'stuck', it may be necessary to hold a [professionals meeting](#) - see separate guidance.

## Appendix 1

# Flowchart of key questions for information sharing



## Appendix 2

### Child Sex Offender Disclosure Scheme

The Child Sex Offender Review (CSOR) Disclosure Scheme is designed to provide members of the public with a formal mechanism to ask for disclosure about people they are concerned about, who have unsupervised access to children and may therefore pose a risk. This scheme builds on existing, well established third-party disclosures that operate under the Multi-Agency Public Protection Arrangements (MAPPA).

Police will reveal details confidentially to the person most able to protect the child (usually parents, carers or guardians) if they think it is in the child's interests.

The scheme has been operating in all 43 police areas in England and Wales since 2010. The scheme is managed by the Police and information can only be accessed through direct application to them.

If a disclosure is made, the information must be kept confidential and only used to keep the child in question safe. Legal action may be taken if confidentiality is breached. A disclosure is delivered in person (as opposed to in writing) with the following warning:

- 'That the information must only be used for the purpose for which it has been shared i.e. in order to safeguard children;
- The person to whom the disclosure is made will be asked to sign an undertaking that they agree that the information is confidential and they will not disclose this information further;
- A warning should be given that legal proceedings could result if this confidentiality is breached. This should be explained to the person and they must sign the undertaking' (Home Office, 2011, p16).

If the person is unwilling to sign the undertaking, the police must consider whether the disclosure should still take place.

## **Appendix 3**

### **The Domestic Violence Disclosure Scheme**

The Domestic Violence Disclosure Scheme (DVDS) commenced on 8 March 2014. The DVDS gives members of the public a formal mechanism to make enquires about an individual who they are in a relationship with, or who is in a relationship with someone they know, where there is a concern that the individual may be violent towards their partner. This scheme adds a further dimension to the information sharing about children where there are concerns that domestic violence and abuse is impacting on the care and welfare of the children in the family.

Members of the public can make an application for a disclosure, known as the 'right to ask'. Anybody can make an enquiry, but information will only be given to someone at risk or a person in a position to safeguard the victim. The scheme is for anyone in an intimate relationship regardless of gender.

Partner agencies can also request disclosure is made of an offender's past history where it is believed someone is at risk of harm. This is known as 'right to know'.

If a potentially violent individual is identified as having convictions for violent offences, or information is held about their behaviour which reasonably leads the police and other agencies to believe they pose a risk of harm to their partner, a disclosure will be made.