

Information Sharing

How to seek consent

How to explain information sharing and to seek informed and explicit consent to share personal information

This guide describes how to explain information sharing and seek consent from a child or young person, or their family where appropriate, to share their personal information with other agencies. It should be read in conjunction with the other Information Sharing 'How to' guides, *Information Sharing: Guidance for practitioners and managers*¹ and any relevant local organisational or professional guidance.

This guide is for practitioners and managers who may have to make decisions and share personal information on a case-by-case basis. It does not relate to bulk or pre-planned sharing of information between organisations or systems. This guide describes best practice in seeking consent. It does not replace existing local privacy policies and procedures.

Best practice in explaining information sharing and seeking consent

Obtaining informed and explicit consent for information sharing is very important and ideally should be obtained from the start. In many cases, informed and explicit consent will be a legal requirement. You may not need to seek consent if it:

- can be **legitimately implied** from the context (e.g., GP referral to a hospital specialist); or
- is **inappropriate** to seek it (e.g., if you have a statutory duty to share); or
- may be **unsafe** to seek it (e.g., seeking consent might increase the risk to the child); or
- causes an **unjustified delay** in investigating allegations of significant harm to a child; or,
- **prejudices** the prevention, detection or prosecution of a serious crime.

Ensuring that consent is 'informed'

¹ *Information Sharing: Guidance for practitioners and managers* (HM Government, 2008)
<http://www.education.gov.uk/publications/standard/publicationDetail/Page1/DCSF-00807-2008>

You must ensure that the child or young person giving the consent fully understands what they are consenting to and the implications of giving or not giving their consent. Working with them within a professional relationship built on trust, respect and confidence should help to ensure that this conversation is not a difficult one. Being open and honest, including being clear about information sharing and respecting their wishes wherever possible, will help to maintain this trust and confidence. This conversation is an integral part of making sure that you fully understand their needs and agreeing how best to meet those needs, including which other practitioners may be able to support them.

A key part of this should be in helping them to understand that sharing information is an essential part of building a team to support them, that you will only share **relevant** information with other practitioners and that you will normally do so only **with their agreement**. You should ensure that they understand that you will review the situation at regular intervals or if circumstances change, and that they can change their minds at any stage.

You should ensure that they understand that you will only share information without their consent in exceptional circumstances, such as when you believe that they or another child or young person may be at risk of significant harm, or an adult may be at risk of serious harm, or to prevent, detect or prosecute a serious crime.

Your work with the child, young person or family should help you decide how best to explain this to them and to check that they have fully understood.

Ensuring consent is 'explicit'

To be explicit, the consent given must specify what types of information can be shared and who it can be shared with. This can also include details of specific exceptions; for example, types of information that cannot be shared and/or people, or agencies that information cannot be shared with.

Explicit consent for sharing personal information can be obtained orally or in writing. Written consent is preferable since it reduces the scope for subsequent dispute. In either case, you should ensure that the decision regarding consent is recorded.

Deciding whose consent to seek

For guidance on deciding whose consent to seek, including how to judge capacity to consent, see the *Information Sharing: How to judging capacity to consent*, and *Information Sharing: Guidance for practitioners and managers*.

Sharing information without consent

You may decide that there is sufficient justification to share personal information without consent. It is good practice to keep the child or young person, and/or family where applicable, fully informed of what information is being shared, why you are doing so and who you are sharing with - unless it is unsafe to do so. As with any decision to share personal information, you should make a record of the decision and the reasons behind it.

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