



Sharing Information About Children at Risk: A Guide to Good Practice



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ISBN 0 7559 0928 3

Published by
Scottish Executive
St Andrew's House
Edinburgh

Produced for the Scottish Executive by Astron B31778 10-03

You can get more copies from
The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
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Sharing information about children: a guide to good practice

1. In November 2002 the Scottish Executive published *It's Everyone's Job to Make Sure I'm Alright*, the report of a national audit and review of child protection practice in Scotland. In common with other reviews of public services to support child welfare and protection, the report concluded that some children experience very serious levels of hurt and harm and live in conditions and under threats that are not tolerable in a civilised society. The report highlighted problems for agencies and professionals in getting the right information at the right time to enable them to support and protect children effectively. In particular, insufficient use was made of inter-agency information, especially information from health and education services. The report recommended that professionals be aware of their responsibilities towards the care and protection of children and that where children are at risk of abuse and neglect, information must be shared promptly with other relevant agencies.
2. Decisions about when to involve other agencies, when to break confidentiality, and when to refer to the Children's Reporter, are difficult and complex. Various factors will come into play, such as the age of the child(ren), the degree of risk the child faces and support available to the family.
3. This short guide gives advice to agencies about when it is necessary to share personal and confidential information about people using their service with other professionals, to safeguard and protect the welfare of children who may be vulnerable or at risk. It is designed to help staff approach this complex area with greater clarity and confidence.

The legal position

4. All professionals and agencies are required to keep confidential information given to them during the course of their work. Information given to professionals by their patient, client or service user should not be shared with others without the person's permission, unless the safety of the person or other vulnerable people may otherwise be put at risk. This general principle is enshrined in professional and ethical codes of conduct, and in human rights and data protection legislation, which acknowledge an individual's right to privacy but which also enable the disclosure and sharing of information in appropriate circumstances.
5. The Human Rights Act 2000 implements provisions of the European Convention of Human Rights (ECHR). Article 8 of the ECHR guarantees respect for a person's private and family life, his home and his correspondence. Disclosure of information would breach that right unless it is in accordance with the law, or necessary for the protection of an individual, or is in the public interest. Unless there is a lawful basis for disclosing information, such as the subject having given consent or compliance with a legal requirement to disclose, the information should not be shared.
6. Disclosure of personal information is governed by the Data Protection Act 1998 (DPA). Personal data covers both facts and opinions about a living individual which might identify that person. The provisions of the DPA ensure that personal information held about any individual cannot be used for purposes other than those for which it was originally supplied without the individual's consent. This prevents unauthorised disclosure of a wide range of information.
7. There are several important exceptions to this set out in the DPA and related guidance. These enable data to be disclosed to safeguard national security, to prevent or assist the detection of crime, or to protect the vital interests of the person. This last

provision is usually interpreted as 'protecting life and limb'. Common law also has a concept of medical confidence, which impacts on capacity to share personal health information. The General Medical Council only allows doctors to share information to prevent or detect a serious crime, i.e. murder, rape or serious assault. Common law enables the disclosure of information where this is necessary to protect a vulnerable person from harm. In some circumstances the police have powers to request professionals to disclose information.

8. Parents and children may be reluctant for information about them to be shared with other professionals, particularly where there are concerns about the child(ren)'s welfare or safety. Parents may fear that they will be denied help, disadvantaged, stigmatised or blamed if other professionals or agencies are given any information about them. This may have been their experience in the past. They may also fear investigation by the police or child protection agencies making enquiries. Contact with these agencies may be stressful even if there is no cause for concern. In most circumstances users of services can rely on confidentiality as their guiding principle. But there are important exceptions to this.

If there is reasonable concern that a child may be at risk of harm this will always override a professional or agency requirement to keep information confidential. All professionals and service providers have a responsibility to act to make sure that a child whose safety or welfare may be at risk is protected from harm. They should always tell parents this.

Confidentiality in practice

9. Confidentiality is an important factor in enabling service users to engage confidently and honestly with agencies. All agencies should respect the need for other professionals and agencies to protect their relationship with their primary client and support the requirement to maintain confidentiality as far as possible. Sometimes professionals will need to share specific information with staff in their agency or other professionals in order to provide treatment or other forms of help. In most cases sharing this information should be based on informed consent by the patient or client. Where it is necessary to obtain informed consent, this should be obtained before sharing information.
10. Agencies should tell service users about the kinds of situations where they may have to share information. For example, a GP may need to discuss a child's medical progress with a physiotherapist or a designated teacher in a school. Agencies and services should give some indication of why, and with whom, they may need to share information and ask for their clients' consent to sharing necessary information in advance. This will save time, misunderstandings and potential conflict later. Local agencies should consider preparing a common pro forma for obtaining informed consent at initial contact with supporting information for service users to supplement verbal information given by staff.
11. If there are worries about a child's care, development or welfare, professionals in touch with the family must co-operate to enable proper assessment of the child's circumstances, provide any support needed and take action to reduce risk to the child. This will normally require them to share relevant information. Guidance from professional bodies emphasises that the child's welfare is the paramount consideration when deciding what they should do in such circumstances.

“Personal information about children and families given to professionals is confidential and should be disclosed only for the purposes of protecting children. Nevertheless the need to ensure proper protection for children requires that agencies share information promptly and effectively when necessary. Ethical and statutory codes for each agency identify those circumstances in which information held by one professional group may be shared with others to protect the child.”

Scottish Executive (2000) *Protecting Children - Guidance On Inter-Agency Co-operation For Health Professionals*; page 28

12. Nursery and school staff, including school nurses and teachers are particularly well placed to observe physical or psychological changes in a child that may signal emerging problems within their family. Children may confide in their teacher about problems at home or other worries. They may want to offer information in confidence. The recipient of information from a child should try as far as possible to retain children’s trust by explaining the need to act to protect the child, who else will be told about the problem and what is likely to happen next. They must pass the information on to the designated member of staff in the school with responsibility for child protection, who will liaise with other relevant staff and agencies as needed.

What kind of information?

13. Agencies working with adults, families, children and young people will gather a great deal of information of different kinds. Not all information gathered or held by a professional or agency will be confidential although all personal health information is ‘sensitive’ under the Data Protection Act. The following are examples – by no means exhaustive – of the kinds of information to which professionals will have access:

- Information may be held by several different agencies – such as a family’s address, family members’ dates of birth, who lives in a household, details of children’s schooling, a child’s status on the Child Protection Register.
 - Information may be held by one agency – such as previous convictions (stored by the police and Disclosure Scotland), or details of response to a period of supervision under a probation order, amounts of drugs prescribed to a parent during a drug withdrawal programme, details of injuries to a child, or allegations of assault.
 - Information may be in the public domain – examples include court appearances or criminal convictions reported in the local paper, names and addresses on the electoral roll.
 - The fact that a person is in touch with an agency may be sensitive information in some circumstances; for example a mental health service or addiction treatment agency may be reluctant to confirm that someone is using their service unless the need to provide such information overrides confidentiality.
 - Information may be personal – such as details of a parent’s childhood history, personal and sexual relationships, information about incidents of domestic abuse, previous treatment, drug or alcohol use, or employment history.
 - Other agencies may ask for a professional assessment or opinion to help them decide how they may help a child or family.
- 14.** Any or all of these kinds of information may be relevant when assessing whether a child may be vulnerable or at risk in their family or from other adults.

Asking for and giving information

- 15.** When any professional or agency approaches another to ask for information they should be able to explain:
- what kind of information they need;

- why they need it;
- what they will do with the information; and
- who else may need to be informed, if concerns about a child persist.

It is not helpful to contact another professional and ask for everything they know about a family, because you are worried about a child. If staff are not sure what kind of information the other agency may have or what they might need to know, they should explain the task so that the other person may better understand how they may help.

- 16.** If a professional or agency is asked to provide information they should never refuse solely on the basis that all information held by their agency is confidential. On receiving answers to the above questions they should consider:
- what information the service user has already given permission to share with other professionals;
 - whether there is any perceived risk to a child which would warrant breaking confidentiality;
 - whether they have relevant information to contribute – that is, information which has, or may have, a bearing on the issue of risk to a child or others, which would enable another professional to offer appropriate help, which may assist access to other services, or help determine whether any other action is necessary to reduce the risk to the child;
 - whether that information is confidential, already in the public domain or could be better provided by another professional or agency, or the parent directly;
 - whether they might obtain permission to disclose information;

- how much information needs to be shared to reduce risk to the child; and
 - whether disclosure would be permanent in accordance with the Data Protection Act 1998.
- 17.** If the professional is uncertain about what information they may share, they should seek advice from a senior staff member in their agency with responsibility for child protection. Each NHS Board and Trust has a designated guardian of patient information, a 'Caldicott Guardian', who is responsible for the way the organisation handles and protects patient identifiable information and all other agencies should have a person who can advise on these matters. If advice is not readily available within their agency, or further advice is needed, they should seek advice from one of the agencies responsible for child protection enquiries; the social work service, the Reporter or the police.
 - 18.** The professional should consider carefully all potential consequences for the child's welfare before making a final decision about whether or not to provide information asked for. S/he should record the information which has been shared, with whom and the reasons for the decision carefully. The professional or agency may subsequently have to justify their disclosure, or refusal to share relevant information, to a court, children's hearing, professional body or other forum.
 - 19.** When a professional refers a child or family to another agency for help, or provides information to assist child protection enquiries, it is good practice to confirm in writing any information given verbally. Where child protection agencies have referred a child to the Reporter, or a children's hearing, or where court proceedings are necessary, written information may be essential and may be submitted to a Sheriff as evidence.

What to say to families when sharing information without consent

20. When concerns about children's safety or welfare require a professional or agency to share confidential information without the person's consent, they should tell the person that they intend to do so, unless this may place the child, or others, at greater risk of harm. They should also tell them what information and to whom that information will be disclosed. Each agency should make clear to people using their service that the welfare and protection of children is the most important consideration when deciding whether or not to share information with others. No agency can guarantee absolute confidentiality as both statute and common law accept that information may be shared in some circumstances.
21. The Confidentiality and Security Advisory Group for Scotland's recent report *Protecting Patient Confidentiality*¹ advises that 'the concept of processing and sharing information without consent to protect the vital interests of a patient or patients has been widely accepted. An example would be where a health professional is concerned that a child or vulnerable adult may be at risk of abuse. Professionals who have such concerns would be expected to draw the attention of the relevant authorities.'
22. Agencies beginning work with families should explain their policy on information sharing and confidentiality carefully, and help parents and, where appropriate, children and young people, to understand the circumstances under which information may have to be shared with others without their consent.

¹ <http://www.show.scot.nhs.uk/sehd/publications/ppcr/ppcr.pdf>

Fostering good communication between agencies

23. All agencies should have in place a child protection policy that helps staff understand how issues of confidentiality are to be managed. Agencies working with families should agree local protocols setting out the responsibilities of different agencies and practitioners in sharing information and working together effectively. In all cases, risks and benefits must be determined individually.
24. Regular communication and co-operation between these agencies and professionals will help them develop appropriate and well co-ordinated care plans for their clients, whether these are children or adults. Agencies working with adults who have problems should seek their clients' consent to pass to other agencies information about their problems which may have a bearing on how well they are coping as parents. Where such information indicates that a child may be at risk of significant harm, they should seek advice from social work services or the police. In turn, agencies working with children should inform agencies supporting the adult(s) in a family when there is a social worker or key worker involved and what contact they are having with the family.
25. Any care plans should include the respective roles of different practitioners. Service users should be given copies of care plans or equivalent information in writing about what the agencies' plans are and how these will be carried out. Agencies should review their care or treatment plans regularly with other agencies and with the parents and, where appropriate, children and young people, usually by bringing them together in inter-agency meetings.
26. All professionals and agencies should keep clear, legible and up-to-date records of:
 - contact with parents and children

- what information is held and any consent by parents or children to information being shared with other agencies or professionals
- the assessment, care plan and any changes as a result of reviews of these and
- contact with other agencies, including the date and content of information shared or discussions held.

27. Records should be dated and should identify the person recording the information. Agencies should comply with the principles of data protection legislation and guidance.

Next steps to support recording and sharing of child health information

28. The Scottish Executive is about to develop a strategic approach to child health information in Scotland, to support delivery of child health policy objectives and support wider cross-Executive policies and initiatives to promote children's healthy development and safeguard their welfare.

29. The strategy should integrate maternity records, the Scottish Birth Record (SBR) and existing child health surveillance programmes, immunisation programmes and child data in other clinical information systems, including contact with A+E services and hospital clinical information, in the design of a single record. There should be a single entry point for all health agencies to a common core module of a comprehensive child health record setting out basic information, with access to underlying health information modules based on modification of existing clinical data, with access for other professionals under specified conditions.

30. This will sit within the context of the national e-Health/ Information Management and Technology Strategy for NHSScotland, and be designed with the capacity to align, and in the longer term, integrate with equivalent strategies and information systems in other agencies.

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