

Information Sharing

'How To' Guide

Seeking consent



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www.dcsf.gov.uk/ecm/informationsharing

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

This guide describes how to explain information sharing and seek consent from an individual, or their family where appropriate, to share their personal information with other agencies. It should be read in conjunction with the other *How To* guides, the cross-government *Information Sharing Guidance for practitioners and managers*¹ and any relevant 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; however you must make sure you follow your organisation's 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. However 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'

You must ensure that the person giving the consent fully understands what they are consenting to and the implications of giving or not giving this 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.

¹ Published by HM Government, 2008. Available at www.dcsf.gov.uk/ecm/informationsharing

A key part of this should be helping them to understand that sharing information is an essential part of building a team to support them and 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 a 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 guidance and the companion 'How To' guide: "*How to judge capacity to consent to sharing of personal information*".

Sharing information without consent

If you decide that there is sufficient justification to share personal information without consent, it is good practice to keep the person 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.

Example of explicit consent and of sharing some information without consent

Rashid, aged 17, is halfway through a 2 year sentence in a Youth Offender Institution (YOI). Following spells of fainting and dizziness, and in discussion with his named nurse, he has given consent to share information with YOI staff about the results of recent healthcare tests. However, he is worried about his family knowing about his fainting spells, because he fears this will increase their concern for him. He has confided to his psychologist in the mental health team that he is being bullied but doesn't want this disclosed.

Because of the circumstances the psychologist decides that she has to disclose the information about bullying to YOI staff. She explains to Rashid that she has to do this to help keep him safe. She tells him how and when she will do this and what will happen as a result. From *When to share information: Best practice guidance for everyone working in the youth justice sector* (DH, 2008)