



Information sharing agreement (ISA) Policy between Nottingham Children's Services and Ambleside Primary school.

Introduction

Whilst acknowledging the importance of security and confidentiality, Central Government policy as expressed through the Every Child Matters agenda places a strong emphasis on the need to share information within the law across organisational and professional boundaries, in order to ensure effective co-ordination and integration of services to give children, young people and their families the best possible chance to achieve their full potential.

It is often necessary for agencies to share information so that children and young people can receive the services they need. Sometimes, it is only when information held by different agencies is put together that a child or young person is seen to be in need of additional or alternative services.

A number of agencies working with children, young people and their families in Nottingham have recognised the importance of this issue and have signed the Caldicott Guardian Protocol for sharing information within the Nottingham area. The Protocol provides an overall framework and visualises a series of Information Sharing Agreements (ISAs) drafted to stipulate what information should be shared and with whom within specific areas of service. This ISA is one of those.

This Agreement has been drafted in accordance with the principles of the Caldicott Guardian Information Sharing Protocol. This provides a framework for all Information Sharing Agreements drawn up between the partner agencies. The Protocol gives details of the legislative background and establishes common principles and procedures. Copies of the Protocol will be made available electronically to parties to the Agreement.

Parties to the Agreement

Nottingham Children's Services and Ambleside Primary school are parties to the Agreement and formally undertake to share information in accordance with the terms of the agreement.

Scope

This Agreement is concerned with the sharing of pupil identifiable information between the parties to the agreement.

Purpose of this agreement and purposes for which information may be shared

The purpose of this ISA is to provide a framework for the secure and confidential sharing of pupil identifiable data arising from the work of schools and the Nottingham City Children's Services. The specific focus of the Agreement is on the sharing of pupil identifiable information.

Sharing information must be within the legitimate activities undertaken by an organisation in providing a service to the public, set out in their legal powers (vires). Information may be shared under the Agreement for the following purposes:

- Planning and delivering appropriate educational provision and social care
- Assuring and improving the quality of education and social care
- Performing assessments, including common assessment framework for children/young people and adults for services or treatments
- Where emotional, physical, sexual, psychological, financial, material or discriminatory abuse/neglect is suspected or a crime has been committed
- Managing and planning services
- Prevention & detection of crime and the apprehension and prosecution of offenders
- Investigating complaints and potential legal claims
- Risk management

Sharing the information will enable the partners to provide integrated and co-ordinated services to children and young people and their families in accordance with Nottingham City Children's Services Children and Young Peoples' Plan and Central Government's Every Child Matters agenda.

The Agreement has been approved only for the purposes listed above. If other purposes to share information are subsequently identified these will be considered for inclusion in the Agreement by the Service Director for Children & Families school's and the school's Governing Body. Amendments must be proposed by the Service Director for Children & Families, Children's Services and approved by the school's Governing Body.

Categories of Information

Records containing any of the following items should be treated as sensitive and/or pupil identifiable and handled appropriately in line with principles and responsibilities defined in this agreement.

Personal Information

Forename, Surname or Initials

Date of Birth

Gender

Address details, especially Postcode

Identity Number, e.g. UPN

Educational attainment

Sensitive Information

Racial or Ethnic origin

Religious Belief or other beliefs of a similar nature

Physical, mental health or condition, nature of abuse
Sexual life
Offences committed or alleged, Court proceedings
Political Opinion(s)
Trade union membership

Principles for recording, using and sharing information

The following are derived from the 'Caldicott Report' (1997). Organisations and their staff must:

1. Justify and, if at all possible, document the purpose for recording and/or sharing information.
2. Only use and share information when absolutely necessary.
3. Use the minimum information required for the purpose - anonymising or removing as much personal/sensitive information as possible.
4. Only access information with consent or on a strict 'need to know' basis, where there is a legal requirement or public/vital interest justification.
5. Ensure awareness and understanding of everyone's responsibilities to maintain confidentiality including understanding & complying with law, including Data Protection, Human Rights & common law of confidentiality.
6. Only use information for the purpose(s) originally agreed at the time of disclosure. If later required for another purpose, the recipient must confirm appropriateness with the supplier and/or subject.
7. Organisations receiving information become 'controllers' of that information under the Data Protection Act (1998). The 'specified and lawful' purposes for using that information will be defined by principle 6 above.

In addition

- Sharing of personal/sensitive information must be done 'fairly' and 'lawfully'. The legal basis for sharing is set out in the Data Protection Act (1998), common law duty of confidentiality and the Human Rights Act. In simple terms 'lawful' sharing requires consent from the individual, unless there is:

A legal duty to share information set out in specific legislation, such as the Children Act (2004), Road Traffic Act (1988), Crime and Disorder Act 1998 and others.

A legal power to share information that is justified by a robust public interest, or in the vital interests of an individual.

Legal duties, robust public interests and vital interests are related to conditions in the Data Protection Act (1998) and are recognised practice in the common law of confidentiality.

- Also, sharing must be 'fair' by ensuring the subject is aware of what is being shared and for what purpose. Only in situations where informing the subject is likely to cause them or others significant harm/distress, or prejudice a situation, can this principle be set aside.

Key Legislation

The relevant legislation identified for the purposes of this protocol is listed below:

The Children Act 1989
The Children Act 2004
Education Act 2002
Education Act 1996
Learning and Skills Act 2000
Education (SEN) Regulations 2001
Children (Leaving Care) Act 2000
Protection of Children Act 1999
Immigration and Asylum Act 1999
Local Government Act 2000
Criminal Justice Act 2003
Crime and Disorder Act 1998
National Health Service Act 1977
Health Act 1999
The Adoption and Children Act 2002

For a full description of the legislative background and the legal basis for sharing information see Appendix A.

Operational Procedures (including Data Protection Compliance)

In addition to abiding by the general procedures stated in the Caldicott Report (1997) as set out above, the following procedures apply in relation to the specific purpose of this ISA:

- Children's Services will collect only data as defined within the DfES Pupil Common Basic Dataset or the DfES School Common Basic Dataset. The school will supply data on the same basis. If an item of data not defined within the common basic datasets is needed then this will be collected through an individual request for data
- The parties agree that data will be collected/exchanged via statutory returns and automated electronic collections (B2B) once these become operational.
- The parties agree that prior to the first collection of data, Children's Services will inform the school as to what data will be collected and the frequency of collections.
 - The parties to this agreement must actively inform individuals of how their information may be used and to whom it may be disclosed. It must highlight their rights to access, withhold and correct information and provide details of the process for individuals to access their records ('Fair Processing Notice').
 - The parties must complete and maintain a Data Protection notification detailing all sources, subjects, purposes and disclosures relevant to their business and partnerships under any agreement.

- The parties must maintain the accuracy and clarity of data they supply under the agreement to aid usefulness and consistent interpretation. Where necessary, partner organisations will be informed of any changes to the data they have received and also notify the source of any error they discover.
- The parties must maintain the confidentiality of data in any form, during collection, transmission and storing with appropriate security arrangements.
- The parties will apply relevant regulations to the retention & disposal of records, only keeping information for as long as is necessary in relation to the original purpose(s) for which it was collected.
- The parties will ensure all relevant staff are aware of, understand and comply with these principles and organisational policy on the collection and uses of information, supported by terms of employment.
- The parties will ensure that any 3rd parties providing a service to them agree and abide by these principles by inclusion in contracts/agreements.
- The parties will have at least basic processes/systems for recording wishes/restrictions on information expressed by individuals.
- The parties in receipt of a 'Freedom of Information' request that covers personal data provided by another organisation, will discuss the situation with the other organisation prior to disclosure and aim to develop a consensus view on any potential exemptions.

Implementation and Management of the Agreement

School Governing Body is responsible for overseeing the operation of the agreement within the school. They are responsible for empowering an appropriate individual to manage the day to day operation of the agreement, i.e. the Head Teacher.

Head Teacher (under delegated authority of the school's Governing Body) is responsible for management and operation of the agreement on a day to day basis, including ensuring that all school staff comply with the provisions of the agreement.

The Service Director, Children and Families is responsible for overseeing the strategic management and operation of the agreement within Children's Services. S/he is responsible proposing amendments to the agreement following consultations with the Head Teacher and Chair of Governors.

Head of Service, Performance & Policy is responsible for overseeing day to day management and operation of the agreement within Children's Services, including ensuring that all departmental staff comply with the provisions of the agreement.

Policy Officer, Performance & Policy is responsible for the monitoring and review of the day to day working of the agreement and for resolving issues arising directly out of the operation of the agreement.

Review & compliance

This set of principles will be reviewed every two years, or at request of either of the parties to the agreement.

Adoption of the Agreement

Undertaking

The parties to the agreement agree that the procedures detailed in the document provide a secure framework for the sharing of pupil identifiable between their respective organisations in compliance with their statutory and professional responsibilities.

As parties to the agreement agencies we undertake to:

- ◆ Implement the agreement within our organisations
- ◆ Ensure that staff are aware of and adhere to the procedures and arrangements set out in the agreement via appropriate training
- ◆ Audit compliance with this agreement to ensure that agreed procedures and arrangements have been implemented
- ◆ Use this agreement to facilitate the sharing of pupil identifiable wherever such sharing is lawful.

Indemnity

Where a disclosing agency provides information to a requesting agency which is inaccurate and the requesting agency incurs liability, cost or expense as a result of its reliance upon the information provided, the disclosing agency shall indemnify the requesting agency against any such liability, costs or expense reasonably incurred, provided that this indemnity shall not apply:

- ◆ where the disclosing agency did not know, and acting reasonably, had no reason to know that the information provided was not accurate
- ◆ unless the requesting agency notified the disclosing agency as soon as practicable of any action, claim or demand to which it considers this indemnity may apply, permits the disclosing agency to deal with the action, claim or demand by settlement or otherwise and renders all reasonable assistance in doing so
- ◆ where the person or authority claiming the benefit of the indemnity has made or makes any admission which may be prejudicial to the defence of the action, claim or demand

Appendix A

Key Legislation and Guidance

The Children Act 1989

Sections 17 and 47 of the Children Act 1989 place a duty on local authorities to provide services for children in need and make enquiries about any child in their area who they have reason to believe may be at risk of significant harm.

Sections 17 and 47 also enable the local authority to request help from other local authorities, education and housing authorities and NHS bodies and places an obligation on these authorities to cooperate. You may be approached by social services and asked to:

- provide information about a child, young person or their family where there are concerns about a child's well-being, or to contribute to an assessment under section 17 or a child protection enquiry;
- undertake specific types of assessments as part of a core assessment or to provide a service for a child in need;
- provide a report and attend a child protection case conference. The Act does not require information to be shared in breach of confidence, but an authority should not refuse a request without considering the relative risks of sharing information, if necessary without consent, against the potential risk to a child if information is not shared.

Section 27 says that the local authority, for assistance in the exercise of its statutory functions (which include the provision of services for children in need and the sharing of information for these purposes) request the help of:

- any local authority;
- any local education authority (LEA);
- any health authority;
- any person authorised by the Secretary of State.

The Children Act 2004

Section 10 of the Act places a duty on each children's services authority to make arrangements to *promote co-operation* between itself and relevant partner agencies to improve the well-being of children in their area in relation to:

- physical and mental health, and emotional well-being;
- protection from harm and neglect;
- education, training and recreation;
- making a positive contribution to society;
- social and economic well-being.

The relevant partners must cooperate with the local authority to make arrangement to improve children's wellbeing. The relevant partners are:

- district councils;
- the police;
- the Probation Service;

- youth offending teams (YOTs);
- strategic health authorities and primary care trusts;
- Connexions;
- the Learning and Skills Council.

This statutory guidance for section 10 states that good information sharing is key to successful collaborative working and that arrangements under section 10 of the Act should ensure that information is shared for strategic planning purposes and to support effective service delivery. It also states that these arrangements should cover issues such as improving the understanding of the legal framework and developing better information sharing practice between and within organisations.

Section 11 of the Act places a duty on key people and bodies to make arrangements to ensure that their functions are discharged with regard to the need to safeguard and promote the welfare of children. The key people and bodies are:

- local authorities (including district councils);
- the police;
- the Probation Service;
- bodies within the National Health Service (NHS);
- Connexions;
- YOTs;
- governors/directors of prisons and young offender institutions;
- directors of secure training centres;
- the British Transport Police.

The section 11 duty does not give agencies any new functions, nor does it override their existing functions, it simply requires them to:

- carry out their existing functions in a way that takes into account the need to
- safeguard and promote the welfare of children;
- ensure that the services they contract out to others are provided having regard to that need.
- In order to safeguard and promote the welfare of children, arrangements should ensure that:
- all staff in contact with children understand what to do and the most effective ways of sharing information if they believe a child and family may require targeted or specialist services in order to achieve their optimal outcomes;
- all staff in contact with children understand what to do and when to share information if they believe that a child may be in need, including those children suffering or at risk of significant harm.

Education Act 2002

The section 11 duty of the Children Act 2004 mirrors the duty placed by section 175 of the Education Act 2002 on LEAs and the governing bodies of both maintained schools and further education institutions to make arrangements to carry out their functions with a view to

safeguarding and promoting the welfare of children and follow the guidance in *Safeguarding Children in Education* (DfES 2004).

The guidance applies to proprietors of independent schools by virtue of section 157 of the Education Act 2002 and the Education (Independent Schools Standards) Regulations 2003.

Education Act 1996

Section 13 of the Education Act 1996 provides that an LEA shall (so far as their powers enable them to do so) contribute towards the spiritual, moral, mental and physical development of the community, by securing that efficient primary and secondary education is available to meet the needs of the population of the area. Details of the number of children in the local authority's area and an analysis of their needs is required in order to fulfil this duty so there may be an implied power to collect and use information for this purpose.

Section 434 (4) of the Act requires LEAs to request schools to provide details of children registered at a school.

Learning and Skills Act 2000

Section 117 provides for help to a young person to enable them to take part in further education and training.

Section 119 enables Connexions services to share information with the Benefits Agency and Jobcentre Plus to support young people to obtain appropriate benefits under the Social Security Contributions and Benefits Act 1992 and Social Security Administration Act 1992.

Education (SEN) Regulations 2001

Regulation 6 provides that when the LEA are considering making an assessment of a child's special educational needs, they are obliged to send copies of the notice to social services, health authorities and the head teacher of the school (if any) asking for relevant information.

Regulation 18 provides that all schools must provide Connexions Services with information regarding all Year 10 children who have a statement of special educational needs.

Children (Leaving Care) Act 2000

The main purpose of the Act is to help young people who have been looked after by a local authority move from care into living independently in as stable a fashion as possible. To do this it amends the Children Act 1989 (c.41) to place a duty on local authorities to assess and meet need. The responsible local authority is to be under a duty to assess and meet the care and support needs of **eligible** and **relevant** children and young people and to assist **former relevant children**, in particular in respect of their employment, education and training. Sharing information with other agencies will enable the local authority to fulfil the statutory duty to provide after care services to young people leaving public care.

Protection of Children Act 1999

The Act creates a system for identifying persons considered to be unsuitable to work with children. It introduces a 'one stop shop' to compel employers designated under the Act (and allows other employers) to access a single point for checking people they propose to employ in a child care position.

This will be achieved by checks being made of criminal records with the National Criminal Records Bureau and two lists maintained by the Department for Education and Skills.

Immigration and Asylum Act 1999

Section 20 provides for a range of information sharing for the purposes of the Secretary of State:

- to undertake the administration of immigration controls to detect or prevent criminal offences under the Immigration Act;
- to undertake the provision of support for asylum seekers and their dependents.

Local Government Act 2000

Part 1 of the Local Government Act 2000 gives local authorities powers to take any steps which they consider are likely to promote the wellbeing of their area or the inhabitants of it. Section 2 gives local authorities 'a power to do anything which they consider is likely to achieve any one or more of the following objectives':

- the promotion or improvement of the economic wellbeing of their area;
- the promotion or improvement of the social wellbeing of their area;
- the promotion or improvement of the environmental wellbeing of their area.

Section 2 (5) makes it clear that a local authority may do anything for the benefit of a person or an area outside their area, if the local authority considers that it is likely to achieve one of the objectives of Section 2(1).

Section 3 is clear that local authorities are unable to do anything (including sharing information) for the purposes of the wellbeing of people - including children and young people - where they are restricted or prevented from doing so on the face of any relevant legislation, for example, the Human Rights Act and the Data Protection Act or by the common law duty of confidentiality.

Criminal Justice Act 2003

Section 325 of this Act details the arrangements for assessing risk posed by different offenders:

- The "responsible authority " in relation to any area, means the chief officer of police, the local probation board and the Minister of the Crown exercising functions in relation to prisons , acting jointly.
- The responsible authority must establish arrangements for the purpose of assessing and managing the risks posed in that area by:
relevant sexual and violent offenders; and other persons who, by reason of offences committed by them are considered by the responsible authority to be persons who may cause serious harm to the public (this includes children)

In establishing those arrangements, the responsible authority must act in co-operation with the persons identified below. Co-operation may include the exchange of information.

The following agencies have a duty to co-operate with these arrangements:

- a) every youth offending team established for an area
- b) the Ministers of the Crown, exercising functions in relation to social security, child support, war pensions, employment and training
- c) every local education authority
- d) every local housing authority or social services authority
- e) every registered social landlord which provides or manages residential accommodation

- f) every health authority or strategic health authority
- g) every primary care trust or local health board
- h) every NHS trust
- i) every person who is designated by the Secretary of State as a provider of electronic monitoring services

Crime and Disorder Act 1998

Section 17 applies to a local authority (as defined by the Local Government Act 1972); a joint authority; a police authority; a national park authority; and the Broads Authority. As amended by the Greater London Authority Act 1999 it applies to the London Fire and Emergency Planning Authority from July 2000 and to all fire and rescue authorities with effect from April 2003, by virtue of an amendment in the Police Reform Act 2002.

It recognises that these key authorities have responsibility for the provision of a wide and varied range of services to and within the community. In carrying out these functions, section 17 places a duty on them to do all they can to reasonably prevent crime and disorder in their area.

The purpose of this section is simple: the level of crime and its impact is influenced by the decisions and activities taken in the day to day business of local bodies and organisations. Section 17 is aimed at giving the vital work of crime and disorder reduction a focus across a wide range of local services that influence and impact upon community safety and putting it at the heart of local decision making. Section 17 is a key consideration for these agencies in their work in crime and disorder reduction partnerships, drug action teams, YOTs, children's trusts and local safeguarding children boards.

Section 37 sets out that the principal aim of the youth justice system is to prevent offending by children and young people and requires everyone carrying out youth justice functions to have regard to that aim.

Section 39(5) sets out the statutory membership of YOTs reflecting their responsibilities both as a criminal justice agency and a children's service. The membership and consists of the following:

- at least one probation officer;
- at least one police officer;
- at least one person nominated by a health authority;
- at least one person with experience in education;
- at least one person with experience of social work in relation to children.

YOTs have a statutory duty to coordinate the provision of youth justice services including advising courts, supervising community interventions and sentences, and working with secure establishments in respect of young people serving custodial sentences and also in the latter category of a children's service.

As YOTs are multi-agency teams, members will also need to be aware of the need to safeguard and promote the welfare of children that relates to their constituent agency.

Section 115 provides any person with a power but not an obligation to disclose information to responsible public bodies (e.g. police, local and health authorities) and with cooperating bodies (e.g. domestic violence support groups, victim support groups) participating in the formulation and

implementation of the local crime and disorder strategy. The police have an important and general common law power to share information to prevent, detect and reduce crime. However, some other public organisations that collect information may not have had the power previously to share it with the police and others. Section 115 clearly sets out the power of any organisation to share information with the police authorities, local authority (including parish and community councils), Probation Service and health authority (or anyone acting on their behalf) for the purposes of the Act. This ensures that information may be shared for a range of purposes covered by the Act, for example for the functions of the crime and disorder reduction partnerships and YOTs, the compilation of reports on parenting orders, anti-social behaviour orders, sex offender orders and drug testing orders.

National Health Service Act 1977

The Act provides for a comprehensive health service to England and Wales to improve the physical and mental health of the population and to prevent diagnose and treat illness.

Section 2 provides for sharing information with other NHS professionals and practitioners from other agencies carrying out health service functions that would otherwise be carried out by the NHS.

Health Act 1999

Section 27 of the Health Act replaces section 22 of the NHS Act 1977. Section 27 states that NHS bodies and local authorities shall cooperate with one another (this allows for practitioners to share information) in order to secure the health and welfare of people.

The Adoption and Children Act 2002

For further information about the Adoption and Children Act 2002 and Regulations see www.dfes.gov.uk/adoption .

