

A PRACTITIONER'S GUIDE TO INFORMATION SHARING, CONFIDENTIALITY AND CONSENT TO SUPPORT CHILDREN AND YOUNG PEOPLE'S WELLBEING

Version: January 2018



CONTENTS

INTRODUCTION	2
PURPOSE	2
SHARING INFORMATION TO SUPPORT AND PROTECT CHILDREN AND YOUNG PEOPLE	3
Identifying when information may need to shared	3
Why share information	3
What information should be shared?	3
How information should be shared	4
Documenting decisions to share information	4
Sharing information at transition points	5
When you are receiving information from others	5
Information sharing summary	5
CONFIDENTIALITY	6
What should be considered when deciding to share information given in confidence?.....	6
CONSENT	7
What is meant by consent?	7
Who can give consent for information sharing?.....	7
What if there are concerns about capacity and understanding?	8
When should I seek consent?	8
How should I ask for and obtain consent?	8
Views of Children, Young People and their Parents or Carers.....	9
Who has parental rights and responsibilities?	9
What should I do if consent to information sharing is refused?	10
What if consent is withdrawn?	10
What if children, young people and families request that all or some information is not shared?.....	11
CHILD PROTECTION CONCERNS	12
Sharing information pre-birth?	13
THE DATA PROTECTION ACT 1998	14
WHEN AND HOW TO SHARE INFORMATION - FLOWCHART	15
PRACTITIONERS SUMMARY - KEY PRACTICE POINTS	16
USEFUL INFORMATION / GUIDANCE	17



INTRODUCTION

Within Aberdeen City, Aberdeenshire and Moray, the shared responsibility to support wellbeing of all children and young people applies to those working with children and young people or with their families across all sectors. The wellbeing of children and young people is at the heart of *Getting it Right for Every Child* (GIRFEC). GIRFEC uses eight indicators to assess wellbeing - safe; healthy; achieving; nurtured; active; respected; responsible; and included.

Most children and young people (including unborn babies) get all the help and support they need from their parents, carers and families, in addition to the universal services of education and health. However, on occasion, some children and young people may need further help and support to promote their wellbeing and this may mean it is necessary to share information with others.

In order to ensure consistent practice, partner agencies across Aberdeen City Council, Aberdeenshire Council, Moray Council, Police Scotland and NHS Grampian have produced this information sharing guidance for all practitioners and managers working with children, young people and their families within the public, private and third sectors. This guidance is fully aligned with current information sharing legislation and will empower practitioners to share information confidently to support, protect and promote the wellbeing of children and young people. This guidance is being issued as interim guidance and will be updated to reflect the General Data Protection Regulations (GDPR) and any requirements from the Children and Young People (Information Sharing) (Scotland) Bill in due course.

This interim guidance provides overarching practice principles around information sharing and sits alongside agency specific guidance. In practice, if you are worried or concerned about a child or young person and are unsure of how to proceed, you should alert your Line Manager/Supervisor within an appropriate timescale and discuss your concern. If you suspect that that child or young person is at risk you must follow local Child Protection arrangements immediately.

PURPOSE

This guidance will ensure that you:

- understand how to positively engage with children, young people and families to take decisions on who and when to share information with and why;
- understand the limitations and constraints of confidentiality and consent; and
- understand that you are empowered to share personal and/or sensitive personal information if you believe that a child or young person is at risk or is likely to be at risk if no action is taken



SHARING INFORMATION TO SUPPORT AND PROTECT CHILDREN AND YOUNG PEOPLE

Identifying when information may need to be shared

When you have any concern about a child or young person's wellbeing and believe a child or young person requires some support you should consider the following **five** key questions: (in accordance with the GIRFEC National Practice Model):

1. **What is getting in the way of this child or young person's wellbeing?**
2. **Do I have all the information I need to help this child or young person?**
3. **What can I do now to help this child or young person?**
4. **What can my agency do to help this child or young person?**
5. **What additional help, if any, may be needed from others?**

A concern can relate to a single issue or incident or from a series of events. Where you can't answer any of the 5 practitioner questions you should consider the need to share information to help build a more robust assessment and/or plan of intervention.

Why share information

The safety, welfare and well-being of a child are of central importance when making decisions to lawfully share information with or about them. The reason why information needs to be shared and particular actions should be communicated openly and honestly with children, and where appropriate their families.

Information may be shared for the following reasons:

- Provision of information to help develop the wellbeing assessment
- Accessing a resource or changing the way a resource is provided
- Requesting a specific assessment
- Provision of a service where it is believed a targeted intervention meets an identified wellbeing need as part of a Child's Plan
- Changing how a service is provided as part of a Child's Plan

What information should be shared?

You should seek to share information which:

- helps answer the five key GIRFEC questions;
- clearly identifies the child or young person you are concerned about;
- relates directly to your current concern;
- although historical, you consider to be relevant to your current worry or concern;
- describes their current living and family circumstances;
- you consider to be relevant.

You need to exercise professional judgement; adopt a common sense approach; **and only share on** a need-to-know basis.



Only share information that you consider **relevant, necessary, legitimate, appropriate and proportionate to your worry or concern**. Unless there is a potential risk of harm to the child or young person you should ensure that they or their parents/carers have agreed to the information being shared - **children have a right to express their views and have them taken into account when decisions are made about what should happen to them**.

How information should be shared

You must comply with your own service and/or agency's information sharing arrangements. These may take the form of policies, procedures, protocols, guidance etc. You should know how and where to access them for further help, information, advice, support and/or assistance.

The following general principles apply:

- Record the reasons why you are sharing information and/or not sharing information;
- Record with whom you have shared the information and when you did so;
- Keep all information safe and secure at all times;
- Always identify the person you are communicating with;
- Do not give verbal information where you can be overheard;
- Do not leave information on answering machines or voicemail;
- Be aware of your service/agency's e-mail policy - always use secure e-mail and follow Safe Haven principles; do not use fax.

Documenting decisions to share information

When you are sharing information you should record this according to your organisational guidance. You should record what information you have shared; who with and why. No matter how you are sharing information, you should ensure you are recording it accurately for future reference according to organisational policy.

You should also be recording any circumstances where information is not being shared and the reason for that. You should also record any circumstances where either you or others make the judgement not to share information and the reason for that too.

When information sharing consent has not been given but you consider that the conditions to share information have been met, you should record what has been shared, with whom, why this sharing was necessary, and what legal basis there is for sharing the information. Practitioners should note that the grounds for sharing will be amended when the GDPR is enacted.

Finally, you should ensure that your record keeping is clear, accurate and concise to prevent any misunderstanding and/or confusion on your part; on the other practitioner's part; and for future reference. You should ensure that all information is kept safe, secure and that there is no unauthorised access to it.

Sharing information at transition points

Particular consideration should be given to information sharing at points of transition. Practitioners should discuss and agree with children, young people and parents/carers what information should be shared. Points of transition could include a change of school, GP Practice, moving into a new area or a change in practitioner supporting the child/young person or parent/carer. Information sharing should always be guided by the best interests of the child or young person.

Local guidance should inform practice.

When you are receiving information from others

Where you are receiving information from another agency/service in a case where the individual has not consented to that sharing, it is reasonable, if you are in any doubt, to ask the agency/service which of the Schedule 2 (and, where applicable, Schedule 3) conditions justify that sharing. It is really important that you ascertain which ground for processing is being used to justify sharing and record this. Asking this question should help to inform your next steps.

Information sharing summary

A useful summary of the key considerations for all Practitioners when considering when to share information; what information to share; who to share with; and how to share information.

When to share

Share information when worried or concerned about a child or young person's wellbeing **and** when you can lawfully do so. Wellbeing - (making sure children are safe, healthy, achieving, nurtured, active, respected, responsible and included)

What to share

Share information which is relevant, necessary, legitimate, appropriate and proportionate. Share information relating only to your concern or worry - reduce or remove unnecessary data. Always use your professional judgement /instincts; adopt a common sense approach.

Who to share with

Share information on need to know basis only, eg named person, lead professional. Discuss sharing information with your Line Manager/Supervisor if you are unclear.

How to share

Share information verbally by telephone, or face to face at meetings, written reports or assessments or by secure email systems. Share information quickly, efficiently, effectively and securely. Follow Safe Haven principles.



CONFIDENTIALITY

Where there is a risk to a child or young person's wellbeing, which may lead to harm, then it is acceptable to share confidential information if it is in the best interest of the child or young person and/or in the public interest.

If you are worried or concerned about a child or young person's wellbeing, it may be necessary to share information. You need to be aware of the limitations and constraints of confidentiality and consent.

All Practitioners working within the public, private and Third/voluntary sector in Scotland are subject to professional codes of practice and frameworks and a [Common Law and Statutory Obligations of Confidence](#). Practitioners must abide by these.

The duty of confidentiality only applies to personal identifiable information. You may also be subject to your own Professional Codes of Conduct and/or your own service and/or agency procedures. You should know how and where to access them for further help, advice, support and/or assistance.

Information that is considered confidential is usually of some sensitivity; is neither lawfully in the public domain nor readily available from another public source; and is shared in a relationship, where the person giving the information understood that it would not be shared with others.

Confidentiality is not an absolute right.

The circumstances making the sharing of confidential information lawful are:

- where the individual to whom the information relates has explicitly consented;
- where disclosure is in the public interest/function (e.g. to protect a child or young person and/or others from harm or for the prevention of crime or disorder); and
- where there is a legal duty to do so (e.g. a statutory obligation or a Court order).

What should be considered when deciding to share information given in confidence?

In deciding whether it is justified, or not, to share information given in confidence, you should first consider the justification for why you are breaching confidence (e.g. why is it in the public interest to share the information or what legal duty are you complying with?) You should then consider what harm might result from failing to disclose the information against the harm that could result from a breach of confidence.

Sharing information in the public interest or in compliance with a legal obligation (for example for protection of the child) is a defence to an accusation of breach of confidentiality.

Any sharing of information should be **relevant, necessary, legitimate, appropriate** and **proportionate** and go no further than the minimum necessary to achieve the public interest objective of protecting a child or young person's wellbeing and must be in accordance with the principles in the Data Protection Act 1998 and the GDPR when enacted.

CONSENT

What is meant by consent?

Consent must be:

- **Freely given** – If the individual has no real choice over the information sharing consent will be invalid. Consent can be withdrawn at any time.
- **Specific and informed** - the individual (child or young person and if appropriate their parent/carer) must understand what is being asked of them. Information should be provided of the possible consequences of withholding information; and
- **Explicit and unambiguous** - the individual (child or young person and if appropriate their parent/carer) positively gives their consent for their information to be shared by a clear statement or affirmative action. It is essential to record the granting of consent, when and why it was supplied, in both hard copy case files and/or in an electronic file, for future reference. Details of refused or withdrawn consent should also be recorded; together with subsequent reviews of consent.

Who can give consent for information sharing?

Children under the Age of 12

Where the child or young person is under the age of 12, consent for information sharing should be sought from a parent/carer. However, the child or young person has a right to be kept informed and to participate in the process.

In circumstances where you consider a child or young person under 12 to have the capacity to provide **informed consent**, and where there is difficulty in the child's relationships with their parents/carers, then a request by the child or young person that consent should not be sought from their parents/carers should be respected, wherever possible.

Children from 12 to 15

Children and young people from the age of 12 are presumed to have the legal capacity to give **informed consent** and to take decisions in their own right. Children and young people aged 12 to 15 are presumed to have a sufficient level of understanding of the nature of consent and its consequences and you should seek their consent where possible.

However, if this is not the case, or you are in any doubt, you should seek advice from your Line Manager.

Young persons from 16 to 18

Parental rights and responsibilities largely cease when a child is aged 16. The exception to this is a parent/carer's responsibility to continue to provide guidance to their child from age 16 to 18. In these circumstances, you should seek to keep their parent/carer or guardian involved in issues affecting their child or young person, but only to the extent that this is compatible with the rights and autonomous choices of the child or young person.

What if there are concerns about capacity and understanding?

If a child or young person (and if appropriate their parent/carer) cannot give consent to share information (for example they lack capacity) you should ask yourself the following four basic questions:

- Does the child or young person (and if appropriate their parent/carer) understand the nature of consent and its consequences?
- Is it necessary to share information?
- Will failure to share mean that assistance and support will not be provided?
- Will the child or young person be at risk?

Where the child or young person (and if appropriate their parent/carer) is deemed not to have capacity, you should also record the following in the child or young person's case file notes and/or electronic file:

- Why the decision was made;
- Who was involved;
- The purpose of sharing the information; and
- What information was shared, with whom and the date.

When should I seek consent?

The need for explicit consent should be considered before any information is shared. Consent should only be used when the individual has a genuine choice over how their data is used. There is a difference between telling someone what you intend to do with their information and getting their consent to do it. You should review whether a consent you have been given remains adequate as your organisations relationship with an individual develops or as the individuals circumstances change - a common sense approach should be adopted. Options to consent separately to different types of information sharing should be given wherever possible.

How should I ask for and obtain consent?

Where you decide it is appropriate to seek consent to share information, you should make sure that consent is given on a **specific and informed basis** by explaining and gaining agreement on:

- the purpose for which the information is to be shared;
- what information is to be shared; and
- with whom it is to be shared.

You should obtain the verbal consent of the child or young person (and if appropriate their parent/carer) to share their information and should record who consented, what the individual has consented to (including what they were told) and when and how they consented.

Practitioners should ensure that any information shared is proportionate and that only information relevant to the wellbeing need is shared. In order to lawfully share information where a child or young person is not immediately or likely to be at risk, explicit consent must be gained and this is best achieved by taking decisions together and carefully recording those decisions.

In most cases, children, young people and families will be happy for information to be shared in order to support wellbeing. Children, young people and families are central to decision making and should be actively involved in discussions about the benefits of sharing information, what information should be shared and with whom. This ensures that everyone is comfortable with the information being shared.

Views of Children, Young People and their Parents or Carers

Taking into account their age and maturity, the Children (Scotland) Act 1995 outlines that practitioners where 'reasonably practicable' should always seek out and listen to the views of the child or young person when sharing information about them. An example of when it might not be 'reasonably practicable' would be when a child has absconded and is missing.

Practitioners should draw on their professional skills, expertise and knowledge, in finding creative ways in which to support all children and young people to express their views. A particular focus should be placed on ensuring efforts are made to obtain the views of younger children, those with communication difficulties, or those who by virtue of vulnerability or disadvantage, find it more difficult to express their views.

This also applies to the views of any parent or carer (except where their views are detrimental to the child's wellbeing or contrary to the child's views). Practitioners should take account of individual service advice when the view of parent and carers are contradictory. A person who has parental rights and responsibilities in relation to the child has responsibility to act as that child's legal representative.

Who has parental rights and responsibilities?

- The child's mother (*whether she is married to the father or not*)
- The child's father if:
 - a) he is married to the mother either when the child is conceived or afterwards
 - b) he is not married to the mother but the mother has agreed he should have parental rights and responsibilities (and this is registered in the Books of Council and Session)
 - c) he is not married to the mother but the Sheriff Court or Court of Session has made an order giving him parental responsibilities and parental rights
 - d) the child is born after 4 May 2006 and his name is on the child's birth certificate
- A guardian who has been properly appointed (*in the event of the parent's death*)

In the event of separation or divorce both parents' continue to have parental rights and responsibilities. Other adults can hold full or specific parental rights and responsibilities if these have been awarded by a court. Parental Rights and responsibilities can only be removed by order of the Sheriff Court or the Court of Session.

What should I do if consent to information sharing is refused?

If you have decided that there is a need to seek consent and/or that the situation is not one where information can be shared under any other purpose or of the other criteria stipulated in Schedule 2 or Schedule 3 of the Data Protection Act 1998 (see page 17), you should not share that information without consent.

You may in the future re-visit this decision if there are changes to the child or young person's wellbeing situation or if risk is present.

In some cases, the child or young person (and if appropriate their parent/carer) may refuse to give consent. If consent is refused then, unless there are other factors about the child or young person's ability to understand the implications of refusal, or risk exists, then in the first instance, the child or young person's right to refuse must be accepted and recorded. Wellbeing should be monitored and risk reassessed routinely.

Where there is doubt about the child or young person's capacity and understanding, or risks exist, you should weigh up the balance between the child or young person's right to privacy and their **need for protection**. In these circumstances, you should consider whether there remains a need and/or justification to share information without consent, despite permission to share being withheld.

What if consent is withdrawn?

Children and young people (and if appropriate their parent/carer) have the right to withdraw consent for information sharing. They should be told they have the right to withdraw their consent at any time, how to do so and the implications of withdrawing their consent. If they withdraw their consent to sharing their information, the considerations about sharing without consent still apply.

In these circumstances, you should:

- fully explain the consequences to the child or young person (and if appropriate their parent/carer);
- advise your Line Manager/Supervisor if appropriate;
- record the decision in the child or young person's case file notes and/or electronic file;
- advise any other Practitioner, service and/or agency receiving information that consent has been withdrawn and that they should cease processing the information from that point onwards unless one of the other statutory conditions apply.

A child or young person (and if appropriate their parent/carer) cannot withdraw consent retrospectively. If wrong information has been shared, the child or young person has the right to ask for that wrong information to be corrected. The receiving Practitioner, service and/or agency should be notified accordingly and the information should be corrected.

Where you continue to have on-going concerns you should keep the situation under review and re-visit as described earlier.

What if children, young people and families request that all or some information is not shared?

Where a request is made by a child, young person or family that information is not shared with others, practitioners should at that point consider whether sharing this information is to **support** a child or young person, or if it is needed to **protect a child or young person from harm or likely harm**.

When sharing information would **support** a child or young person practitioners should explain the implications of not sharing. This may mean that a service cannot be accessed or increased support may not be available for them. This should be clearly recorded in the child's records and the situation reviewed again at an agreed time. The professional must do their best to meet the child or young person's needs within their capacity however when the situation is reviewed, if the concern still exists, consideration to sharing information appropriately as described above, should be given.

If sharing the information will support a child or young person's wellbeing but there is no risk of harm or likely harm, we should respect the wishes not to share at that point. Concerns should continue to be monitored and revisited if wellbeing doesn't improve, with a reassessment of risk undertaken.

It can be helpful to ask yourself the following four key questions to help aid professional judgement and decision making:

- *What are my reasons for deciding not to share information?*
- *What harm could result if I do not share information?*
- *What are the implications for the child or young person, for me and/or my service, agency and/or organisation if I decide not to share information?*
- *Do I need to discuss with my Line Manager/Supervisor whether or not to share information?*

Where information-sharing is necessary to **protect** a child or young person from harm or likely harm, child protection processes must be followed immediately.

The decision not to share information must be properly recorded as per organisational policy in both hard copy case files and/or in an electronic file, for future reference.

CHILD PROTECTION CONCERNS

For the avoidance of doubt, **there is no need to seek parents' consent** to share information where:

- *there is a perceived risk to a child or young person's wellbeing which may, if not addressed, lead to harm;*
- *a child or young person is believed to have been abused or at risk of harm or exploitation;*
- *there is evidence of serious public harm or risk of harm to others;*
- *there is evidence of a serious health risk to the child or young person;*
- *sharing is necessary for the prevention, detection or prosecution of crime;*
- *we are ordered to share by a court; or*
- *there is a statutory requirement to share.*

Recent advice from the (UK) Information Commissioner's Office has clarified, what has been a misconception held by many regarding the [Data Protection Act 1998](#) and lawful processing.

The ICO have advised that, ' **Where a Practitioner believes, in their professional opinion, that there is risk to a child or young person that may lead to harm, proportionate sharing of information is unlikely to constitute a breach of the Act in such circumstances.**

SHOULD THERE BE ANY CONCERN THAT THE CHILD OR YOUNG PERSON MAY BE AT RISK, IT IS ESSENTIAL THAT LOCAL CHILD PROTECTION PROCEDURES ARE FOLLOWED IMMEDIATELY.

If we are to get it right for every child and young person's wellbeing we need to intervene early. To achieve this we need to change the emphasis from crisis management to early identification, intervention and support. This will involve the appropriate and proportionate sharing of personal information and in some cases sensitive personal information.

Child protection is part of the continuum of assessment and intervention to support children and young people through GIRFEC. The first and most important wellbeing indicator in these cases is Safe.

All local child protection policy and procedures should be followed immediately including discussion around how and when children, young people and their parents/carers will be told that information has been shared.

In such cases, where information will be shared, **consent should not be sought**, as to do so would give the subject (child or young person and/or their parents/carers) a false belief that they can control the decision, which they cannot.

In such circumstances, the child, young person and/or their parents/carers should be informed of the intention to share information and the reasons why, unless by doing so would further expose the child or young person to risk or hamper a Police investigation.

Practitioners may choose to seek advice from the Police or Children's Social Work before proceeding.

It is necessary to record any decisions in the child or young person's case file notes and/or in an electronic file detailing what information has been shared and with whom.

The following indicators may help you decide not to seek consent:

- *where there is a risk to a child or young person which may, if not addressed, lead to significant harm;*
- *when a child or young person is believed to have been abused or at risk of harm or exploitation;*
- *when there is evidence of serious public harm or risk of harm to others;*
- *where there is evidence of a serious health risk to the child or young person;*
- *for the prevention, detection or prosecution of crime;*
- *when instructed to do so by the Court; and*
- *where there is a statutory requirement, e.g. where information is required by a Children's Reporter as part of their investigation of a child or young person referred to them.*

It is important that the basis for sharing information **or not** sharing information is recorded and noted in the child or young person's case file notes and/or electronic file and that the child or young person (and if appropriate their parent/carer/guardian) is informed of the decision.

In general, if it can be shown that the requirements of the Data Protection Act 1998 and the Human Rights Act 1998 have been taken into consideration when deciding whether it is appropriate to share and/or seek and/or exchange information, then the requirements of the common law duty of confidentiality and other statutory obligations will also be met.

Sharing information pre-birth?

Occasionally, you may also be worried or concerned about the wellbeing of an unborn child however the sharing of information about an unborn child can present additional challenges.

In these circumstances, you should try to involve the parents-to-be in decisions about sharing information, unless this would increase the risks to the unborn child.

Where you have a worry or concern about the unborn child's development; or the mother's health; or the future wellbeing of the child when born; you should share information. This includes sharing information prior to the birth of a child to ensure planning during the pregnancy, which will inform protective planning from the moment of birth.

Practitioners caring for a pregnant woman should always consider if the unborn child may be endangered, or its future wellbeing harmed by, the adult's condition, behaviour or lifestyle.

If a decision is taken to share information about an unborn child, the pregnant woman should be informed and this decision should always be recorded. The recipient of the information should also be informed of why it was decided to share the information.

THE DATA PROTECTION ACT 1998

The Data Protection Act 1998 provides specific conditions for processing personal information and sensitive personal information respectively.

At least one criterion from the left hand column below must be met before processing personal information and at least one from **each** column for sensitive personal information.

'Personal information' is information relating to an individual from which they can be identified (e.g. name, address etc).

"Sensitive personal information" is information in relation to the child or young person's: racial or ethnic origin; political opinions; religious beliefs or other beliefs of a similar nature; trade union membership; physical or mental health or condition; sexual life; commission or alleged commission of any offence; and also any proceedings for any offence committed or alleged to have been committed by the child / young person.

The conditions for processing which may be relevant for sharing confidential information are:

PERSONAL INFORMATION Schedule 2 Conditions	SENSITIVE INFORMATION Schedule 3 Conditions
<ul style="list-style-type: none"> • With the person's consent; • Where there is a legal obligation; • To protect the vital interests of the person; • For the administration of justice; • For the exercise of any functions conferred under any enactment; • For the exercise of any function of a public nature exercised in the public interest. 	<ul style="list-style-type: none"> • With the person's explicit consent; • Where there is a legal obligation; • To protect the vital interests of the person; • In connection with legal proceedings, obtaining legal advice or defending legal rights; • For the administration of justice; • To protect the person from dishonesty, misconduct or unlawful conduct and in the substantial public interest. • For medical purposes

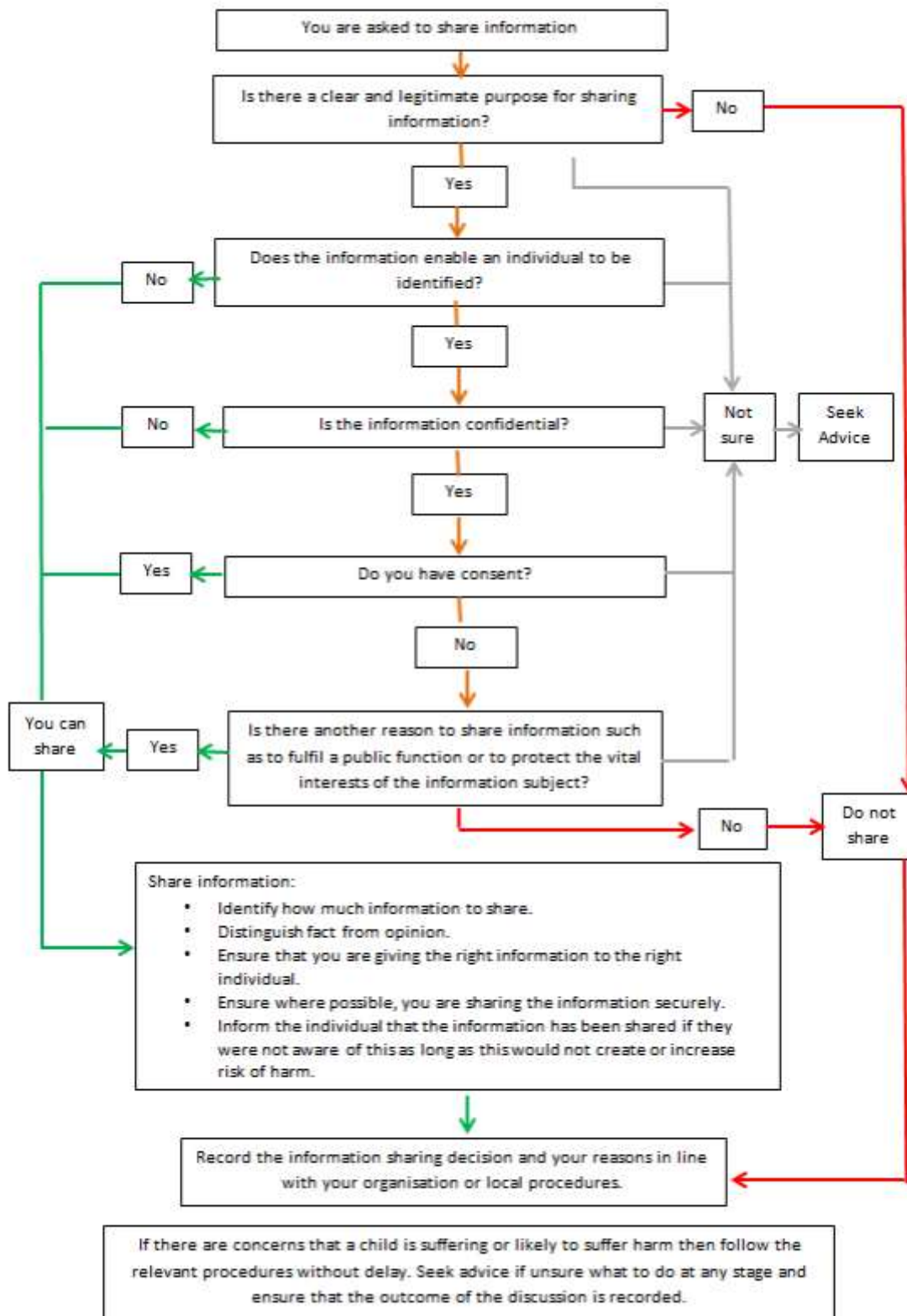
Should any one of these circumstances apply, then it is lawful to share information.

Consent should only be sought when the individual has a real choice over the matter.

If you are working with a child, young person and/or their family and you do not have any concerns about a child or young person's wellbeing, it is likely that you can only rely on consent, as a condition to allow you to share information.

THIS SECTION WILL BE REVIEWED TO COINCIDE WITH THE ENACTMENT OF THE GDPR AND THE CHILDREN AND YOUNG PEOPLE (INFORMATION SHARING) SCOTLAND BILL.

When and How to Share Information



PRACTITIONERS SUMMARY - KEY PRACTICE POINTS

Information Sharing

- Always involve and consider the views of the child/young person and their families in any decision to share information unless it is not in their best interest to do so.
- The wellbeing of children and young people is everyone's job and everyone's responsibility; doing nothing is not an option:
- Keep your focus on the wellbeing of the child or young person;
- Ask yourself the five key GIRFEC questions - if you do not know - find out;
- Adopt a common sense approach;
- Use your professional judgment, knowledge and skills - listen to your gut feelings;
- Do not delay unnecessarily - act quickly;
- Seek help and support in doing so if appropriate
- Share what you consider only to be necessary, legitimate, appropriate and proportionate - on a need-to-know basis only;
- Consider the alternatives and/or implications of not sharing information;
- Where consent to share information has been obtained this will need to be revisited for any future sharing;
- Follow your own service/agency information sharing guidance;
- Always record your decision and the reasons for it.

Confidentiality

- Confidentiality does not prevent you from sharing a worry or concern about a child or young person's wellbeing - it actually empowers you to do so;
- Confidentiality is not an absolute right - never promise that;
- Be aware of the constraints and limitations of confidentiality;
- Keep in mind your duty of care;
- Acting in the public interest can be a defence to an accusation of breach of confidence - but this must be strongly justified

Consent

- Do not seek consent in situations where you will share information in any case - Consent should only be sought when the individual has a real choice over the matter;
- Consent should be informed and explicit - implied consent is not enough;
- If consent is necessary children and young people, subject to their age and developmental capacity, can withhold or provide consent;
- Consent must always be recorded.

USEFUL INFORMATION / GUIDANCE

Practitioners may find the following key electronic links useful:-

Key Legislative Framework

- The Social Work (Scotland) Act 1968
- The Age of Legal Capacity (Scotland) Act 1991
- The Children (Scotland) Act 1995
- The Human Rights Act 1998
- The Data Protection Act 1998
- The Freedom of Information (Scotland) Act 2002
- The Children and Young People(Scotland) Act 2014

Key Policy Framework

- UN Convention on the Rights of the Child
- Common Law and Statutory Obligations of Confidence
- Scottish Government (2010) National Guidance: Under-Age Sexual Activity: Meeting the Needs of Children and Young People and Identifying Child Protection Concerns
- National Guidance on Child Protection in Scotland (May 2014)
- Getting it Right for Every Child
- The Caldicott Guardian - Principles into Practice - Caldicott Guardians
https://www.knowledge.scot.nhs.uk/caldicottguardians/caldicott-guardian---_principles-into-practice.aspx

Useful Links - Key Local Guidance

- Memorandum of Understanding 2011 - Grampian Data Sharing Partnership

