



## Unit 9

## Information Sharing and Record Keeping

### Learning Outcomes

By the end of this unit the learner will be able to:

- ✓ Understand the effects of GDPR on information sharing practices
- ✓ Know when and where information can be shared without consent
- ✓ Discuss what type of information should be shared and who with

## Unit 9

### Information Sharing and Record Keeping

Sharing information is an intrinsic part of any frontline practitioners' job when working with children and young people. The decisions about how much information to share, with whom and when, can have a profound impact on individuals' lives. Information sharing helps to ensure that an individual receives the right services at the right time and prevents a need from becoming more acute and difficult to meet.

Fears about sharing information cannot be allowed to stand in the way of the need to safeguard and promote the welfare of children at risk of abuse or neglect. Every practitioner must take responsibility for sharing the information they hold, and cannot assume that someone else will pass on information, which may be critical to keeping a child safe.

#### The Seven Golden Rules to Sharing Information

- 1. Remember that the General Data Protection Regulation (GDPR),** Data Protection Act 2018 and human rights law are not barriers to justified information sharing, but provide a framework to ensure that personal information about living individuals is shared appropriately.
- 2. Be open and honest with the individual** (and/or their family where appropriate) from the outset about why, what, how and with whom information will, or could be shared, and seek their agreement, unless it is unsafe or inappropriate to do so.
- 3. Seek advice from other practitioners, or your information governance lead,** if you are in any doubt about sharing the information concerned, without disclosing the identity of the individual where possible.
- 4. Where possible, share information with consent,** and where possible, respect the wishes of those who do not consent to having their information shared. Under the GDPR and Data Protection Act 2018 you may share information without consent if, in your judgement, there is a lawful basis to do so, such as where safety may be at risk. You will need to base your judgement on the facts of the case. When you are sharing or requesting personal information from someone, be clear of the basis upon which you are doing so. Where you do not have consent, be mindful that an individual might not expect information to be shared.
- 5. Consider safety and well-being:** base your information sharing decisions on considerations of the safety and well-being of the individual and others who may be affected by their actions.
- 6. Necessary, proportionate, relevant, adequate, accurate, timely and secure:** ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those individuals who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely (see principles).

- 7. Keep a record of your decision** and the reasons for it – whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose.

## The General Data Protection Regulation (GDPR) and Data Protection Act 2018

The GDPR and Data Protection Act 2018 do not prevent, or limit, the sharing of information for the purposes of keeping children and young people safe.

To effectively share information:

- All practitioners should be confident of the processing conditions, which allow them to store, and share, the information that they need to carry out their safeguarding role. Information which is relevant to safeguarding will often be data which is considered ‘special category personal data’ meaning it is sensitive and personal
- where practitioners need to share special category personal data, they should be aware that the Data Protection Act 2018 includes ‘safeguarding of children and individuals at risk’ as a condition that allows practitioners to share information without consent
- Information can be shared legally without consent, if a practitioner is unable to, cannot be reasonably expected to gain consent from the individual, or if to gain consent could place a child at risk.
- Relevant personal information can be shared lawfully if it is to keep a child or individual at risk safe from neglect or physical, emotional or mental harm, or if it is protecting their physical, mental, or emotional well-being.

## Responding to Abuse and Neglect

All practitioners should be alert to the signs and triggers of child abuse and neglect. Abuse (emotional, physical and sexual) and neglect can present in many different forms. Indicators of abuse and neglect may be difficult to spot. Children may disclose abuse, in which case the decision to share information is clear, as actions must be taken to respond to the disclosure.

In other cases, for example, neglect, the indicators may be more subtle and appear over time. In these cases, decisions about what information to share, and when, will be more difficult to judge. Everyone should be aware of the potential for children to be sexually exploited for money, power, or status, and individuals should adopt an open and inquiring mind to what could be underlying reasons for behaviour changes in children of all ages.

If a practitioner has concerns about a child’s safety or welfare, they should share the information with the local authority children’s social care, NSPCC and/or the police, in line with local procedures. Security of information sharing must always be considered and should be

proportionate to the sensitivity of the information and the circumstances. If it is thought that a crime has been committed and/or a child is at immediate risk, the police should be notified immediately.

### Legislative Framework

Key organisations who have a duty under section 11 of the Children Act 2004 to have arrangements in place to safeguard and promote the welfare of children are:

- The local authority;
- NHS England;
- Clinical commissioning groups;
- NHS Trusts, NHS Foundation Trusts;
- The local policing body;
- British Transport Police Authority;
- Prisons;
- National Probation Service and Community Rehabilitation Companies;
- Youth offending teams; and
- Bodies within the education and /or voluntary sectors, and any individual to the extent that they are providing services in pursuance of section 74 of the Education and Skills Act 2008.

Where there are concerns about the safety of a child, the sharing of information in a timely and effective manner between organisations can improve decision-making so that actions taken are in the best interests of the child.

The GDPR and Data Protection Act 2018 place duties on organisations and individuals to process personal information fairly and lawfully; they are not a barrier to sharing information, where the failure to do so would cause the safety or well-being of a child to be compromised. Similarly, human rights concerns, such as respecting the right to a private and family life would not prevent sharing where there are real safeguarding concerns.

All organisations should have arrangements in place, which set out clearly the processes and the principles for sharing information internally. In addition, these arrangements should cover sharing information with other organisations and practitioners, including third party providers to which local authorities have chosen to delegate children's social care functions, and any Local Safeguarding Children Board (LSCB) still operating within the local authority area as well as safeguarding partners.

### The Principles

The principles set out below are intended to help practitioners working with children, young people, parents and carers share information between organisations. Practitioners should use their judgement when making decisions about what information to share, and should follow organisation procedures or consult with their manager if in doubt.

***The most important consideration is whether sharing information is likely to support the safeguarding and protection of a child.***

#### **Necessary and proportionate**

When taking decisions about what information to share, you should consider how much information you need to release. Not sharing more data than is necessary to be of use is a key element of the GDPR and Data Protection Act 2018, and you should consider the impact of disclosing information on the information subject and any third parties. Information must be proportionate to the need and level of risk.

#### **Relevant**

Only information that is relevant to the purposes should be shared with those who need it. This allows others to do their job effectively and make informed decisions.

#### **Adequate**

Information should be adequate for its purpose. Information should be of the right quality to ensure that it can be understood and relied upon.

#### **Accurate**

Information should be accurate and up to date and should clearly distinguish between fact and opinion. If the information is historical then this should be explained.

#### **Timely**

Information should be shared in a timely fashion to reduce the risk of missed opportunities to offer support and protection to a child. Timeliness is key in emergency situations and it may not be appropriate to seek consent for information sharing if it could cause delays and therefore place a child or young person at increased risk of harm. Practitioners should ensure that sufficient information is shared, as well as consider the urgency with which to share it.

#### **Secure**

Wherever possible, information should be shared in an appropriate, secure way. Practitioners must always follow their organisation's policy on security for handling personal information.

### Record

Information sharing decisions should be recorded, whether or not the decision is taken to share. If the decision is to share, reasons should be cited including what information has been shared and with whom, in line with organisational procedures. If the decision is not to share, it is good practice to record the reasons for this decision and discuss them with the requester. In line with each organisation's own retention policy, the information should not be kept any longer than is necessary. In some rare circumstances, this may be indefinitely, but if this is the case, there should be a review process scheduled at regular intervals to ensure data is not retained where it is unnecessary to do so.

### When and how to share information

When asked to share information, you should consider the following questions to help you decide if, and when, to share. If the decision is taken to share, you should consider how best to effectively share the information.

#### When

Is there a clear and legitimate purpose for sharing information?

- Yes – see next question
- No – do not share

Do you have consent to share?

- Yes – you can share but should consider how
- No – see next question

Does the information enable an individual to be identified?

- Yes – see next question
- No – you can share but should consider how

Have you identified a lawful reason to share information without consent?

- Yes – you can share but should consider how
- No – do not share

#### How

- Identify how much information to share
- Distinguish fact from opinion
- Ensure that you are giving the right information to the right individual
- Ensure where possible that you are sharing the information securely

- Where possible, be transparent with the individual, informing them that the information has been shared, as long as doing so does not create or increase the risk of harm to the individual.

All information sharing decisions and reasons must be recorded in line with your organisation or local procedures. If at any stage you are unsure about how or when to share information, you should seek advice on this. You should also ensure that the outcome of the discussion is recorded.

Sharing of information between practitioners and organisations is essential for effective identification, assessment, risk management and service provision. Fears about sharing information cannot be allowed to stand in the way of the need to safeguard and promote the welfare of children and young people at risk of abuse or neglect.

### Further Reading:

- ✓ Education Model Protocol for Record Keeping on Children and Young People, Feb 2010
- ✓ Safeguarding record keeping guidance for education settings, September 2018
- ✓ Safeguarding: Record Keeping & Confidentiality, Stephanie Mathivet