



Frequently Asked Questions

Q1. Why do we need to share information?

- To safeguard and promote the welfare of children and young people.
- To develop a holistic view of a child or young person's situation over time.
- To provide effective service delivery.
- To improve the quality of service.
- To safeguard staff.

Q2. Will I be supported by my organisation if I share information?

Yes. The agencies signed up to the **Devon Children's Trust Code of Practice** are committed to supporting staff when they share information in good faith and in accordance with this guidance, to promote a child's wellbeing or about a child whose welfare might be compromised by not sharing information.

Q3. Does the Data Protection Act stop us sharing information?

No. The Data Protection Act 1998 does not prevent information sharing. It is in place to make sure that personal information is handled and shared properly. Complying with the Data Protection Principles can actually strengthen the information sharing process.

Q4. Do I need consent to share personal information within my organisation?

No, as long as the information is still going to be used for the purpose it was originally obtained for and the intended use is a legitimate purpose which does not cause unjustified prejudice to the person it is about.

Q5. Is some information more sensitive?

Yes. Sensitive personal data is information about someone's:

- racial or ethnic origin
- political opinions
- religious or other beliefs of a similar nature
- trade union membership
- physical or mental health or condition
- sexual life
- criminal offences committed or alleged to have been committed.

Q6. When should I raise information sharing with the service user?

The answer to this will vary according to your agency.

- Schools will provide a leaflet on this issue to parents of children.
- GPs may choose to provide a health leaflet on this issue to all patients on registration with the practice.
- Care managers should discuss and give a leaflet to service users at an initial assessment stage.
- Youth and play service workers should discuss and give a leaflet to service users on registration for a service.
- Connexions provide information directly to all young people (13-19) through the Connexions Information Sharing Agreement and other publications.

Q7. When should I get consent to share information?

Before you share the information unless you have a valid reason not to.

Q8. How much information should I share?

Only the minimum amount of information which is necessary for the intended purpose. The information shared must be adequate, relevant and not excessive for the purpose.

Q9. What should I do if I am suspicious about the situation of a child but am not sure whether I have grounds to share information?

Contact other relevant professionals and seek advice. If you aren't sure at that time whether you have grounds to share information about the child, even when seeking advice, keep the child and their family's identity anonymous.

Q10. How should I share information?

- Only share information which is necessary.
- Only share information with the person or people who need to know.
- Check that the information is accurate and up to date. Make sure you share information in a secure way.
- Establish with the recipient whether they intend to pass it on to other people and ensure they understand the limits of any consent which has been given.
- Inform the person the information is about or the person who provided the information of the sharing, if it is safe to do so.

Q11. If I am working with a child or young person on an ongoing basis, should I continue to share information with other agencies who work with the child?

Where a number of agencies or workers are involved with a child or young person, for instance school, youth worker and a care manager, it is good practice to identify a **lead practitioner** who will act as the co-ordinating point for the sharing of this person's information. This should be discussed with the service user and the guidance on obtaining consent should be followed.

Q12. What should I do if a service user wants to see information which another agency has shared with me?

Everyone has a general right to see or receive a copy of the personal information which is held about them (subject to conditions and exemptions). The right of **Subject Access** is given to all of us under Section 7 of the Data Protection Act 1998. Your organisation will probably have a procedure in place for handling these types of requests and usually this is dealt with by a data protection team or an information compliance team. You should find out who this is within your organisation and contact them about any intended disclosure.

Q13. What do I do if I think a disclosure might affect the safety of staff or another service user?

If you have information which suggests that as a consequence of sharing information, an employee or another service user's safety might be at risk, you must bring this to the attention of the person who is going to make the disclosure. You or the person making the disclosure must seek advice and guidance from an appropriately senior manager.

Q14. Are there different rules for voluntary sector workers when they share information?

Yes, sometimes. If you work in the voluntary sector it is unlikely that you will have a statutory duty to share information, unlike public authorities in certain circumstances. Therefore you must be able to identify what your legal power is for sharing information, for example what act of law allows you to share information such as the *Crime and Disorder Act 1998*. Voluntary organisations usually rely on consent as their lawful basis.

If you don't have consent, there may be other ways in which you can still share the information, see legitimate and lawful purpose in this guidance.

Q15. Do I need to record the disclosures I make?

Yes. You should record:

- what information was shared
- why it was shared
- who it was shared with.

If you shared the information without consent, you should record the reason for this and the lawful basis you used for sharing information without consent.

If you shared personal information with informed consent, usually using a signed consent form, this consent form should be kept on the service user's file.

Q16. Why should I get consent to share information?

- It is a lawful basis for sharing the information.
- It is also best practice. It gives the service user a sense of control and increases trust and openness.

Q17. What is informed consent?

Informed consent is consent given by someone who fully understands what they are consenting to. They must also understand what the consequences may be if they give consent and if they refuse consent.

Q18. Who should give consent to share information?

- A parent or a person with parental responsibility if the child is under 12.
- The child, if they are over 12 but under 16 as long as they are competent.
- The young person, if they are 16 or over, unless they are not competent.
- A parent or a person with parental responsibility, if a child or young person of any age, is not considered to be competent.
- The person who provided the information, whether or not the information is considered to be confidential.

It is good practice to seek the consent of everyone whose personal information you propose to share, unless there is an overriding reason not to.

The consent of one person with parental responsibility is generally regarded as sufficient. For Children in Care, parental responsibility may lie with Devon County Council.

Q19. What do I do if consent is withheld or withdrawn?

Service users can refuse to give consent for their information to be shared, with anyone, with specific agencies or they can withhold consent for certain information to be disclosed.

If this happens, talk to them about their concerns and, if appropriate, explain the consequences of them not providing consent for their information to be shared.

If consent is withheld or withdrawn ask yourself whether you feel there is a need or a legal power to share their information without their consent.

In deciding this, you should consider whether the harm that could be caused by not disclosing their information outweighs the harm that could be caused by disclosing it without their consent.

If you need assistance with making this judgment, speak to your line manager who may consider seeking advice from your data protection officer, Caldicott Guardian or legal services team.

If you decide to override a refusal of consent, let the service user know and tell them why. You should also keep them involved in any other decisions affecting them.

Q20. How should I get consent to share information?

- Ask the service user to complete a consent form where possible. You may have a standard form that your organisation uses. If you don't, consider using the template consent form included in this guide.
- It is best practice to get consent in writing but consent can also be given verbally or it can be inferred from the circumstances in which it is given.
- Explain what will happen to their information if they give you consent and what could happen if they don't.
- Be clear about who you wish to share their information with, and why.
- Be clear about how sharing their information will mean a better service to the child, young person or family.
- Allow the service user to identify particular information which he or she does not want to be shared or particular agencies that he or she does not want their information to be shared with.
- Explain that in some circumstances you do not need consent to share information - such as if you have a legal obligation to share their information.

Q21. Can general consent to share information be obtained in advance?

Yes, but only when the implications of this are clearly explained to the person and where a high level of co-ordinated inter-agency services will be needed over a long period - such as in the case of a severely disabled child.

Q22. Does general consent need to be renewed?

Yes. Consent should be checked with adults and competent children and young people at each review meeting, and the outcome recorded in the notes of that meeting.

If a consent form has been used, consent will be valid for the duration of the purpose outlined on the form or the retention period specified.

Q23. Where should I record consent or refusal of consent?

Record consent or refusal of consent on the service user's records. You should also record any decisions made about sharing their information and any disclosures made. A template disclosure record can be found in this guide if you do not have a system already in place.

Q24. When can I share sensitive personal information without consent?

The categories of sensitive personal data are listed in Question 5. Appendix Two of the **Devon Children's Code of Practice** provides 2 checklists to help partners decide whether they can lawfully under principle one of the DPA 1998. Partners acknowledge that they must also consider the other principles when deciding whether or not they can share information.

Q25. If I have legal grounds to share personal information do I still need to talk to the child, young person or parent about this?

Yes. It is good practice to keep people informed of what is happening to their information even if this is difficult. Experience shows that this increases trust and openness in relationships and gives the service user a sense of control over what is happening to them.

The individual should be told before their information is shared, unless this would place someone at risk, prejudice a police investigation, or lead to unjustifiable delay.

If one of these applies, let the person know the information has been shared as soon as it is safe and possible to do so.

Q26. What if I feel reluctant to ask for consent?

Ask yourself why you feel reluctant. Would seeking consent place someone at risk of harm or prejudice a police investigation? If so, you probably have legal grounds for sharing the information without consent.

Consider whether the harm that could be caused by not disclosing their information would far outweigh the harm that could be caused by disclosing it without their consent.

If in doubt, discuss this with your line manager.



Devon Children's Trust is a partnership between social care, education, health, community, voluntary and justice services working together to make a difference for Devon's children and young people. www.devonchildrenstrust.org.uk

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