

## Department for Education consultation on Information sharing advice for safeguarding practitioners

Closes 6 Sep 2023

Link to consultation: [Information sharing advice for safeguarding practitioners - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/information-sharing-advice-for-safeguarding-practitioners)

### Introduction

This consultation seeks views on a revision to non-statutory guidance: **Information sharing advice for practitioners providing safeguarding services to children, young people, parents and carers** (“Information Sharing Advice”). The Information Sharing Advice:

1. outlines the responsibilities of agencies and organisations and the golden rules to promote effective information sharing;
2. summarises the key responsibilities of professionals who share and process personal information and/or have responsibility for deciding how to process it; and
3. explains the lawful bases that may be most appropriate for sharing personal information in a safeguarding context.

We are asking for your views on the revised Information Sharing Advice to ensure that it provides more clarity, is easily understood, and instils confidence to share information appropriately amongst practitioners. Your views are important and we want to hear them.

A draft version of the revised Information Sharing Advice has been published alongside this consultation, and the two documents should be read in conjunction.

### Who is this for?

- All individuals who are directly involved in safeguarding children, including frontline practitioners, managers and senior leaders.
- Individuals and organisations that work with children, young people, parents, carers and families, in sectors such as social care, education, health, justice and voluntary.

**We use the term ‘practitioners’ in this advice to include all individuals who work with children, young people and their families in any capacity.**

## About this consultation

This consultation seeks views on the revised ***Information sharing advice for practitioners providing safeguarding services to children, young people, parents and carers***.

The last substantive update of the Information Sharing Advice was in July 2018 to reflect the revised Data Protection Act 2018 and introduction of the UK General Data Protection Regulation (UK GDPR) .

Recent national reviews (such as the Independent Review of Childrens Social Care and the Child Safeguarding Practice Review Panel's review '*Child Protection in England*') have evidenced confusion, anxieties and poor practices of practitioners sharing information to protect children and recommended improved training and guidance for practitioners. In February 2023, the Government published *Stable Homes, Built on Love*, which responded to the recommendations, and has committed to revising and consulting on the Information Sharing Advice to address practitioners' perceptions that there are legal impediments to sharing information.

We recognise how vital timely and effective information sharing is in safeguarding and promoting the welfare of children. Improvements to policy and practice are still required. The Health and Care Act 2022 commits the Secretary of State to report to Parliament in Summer 2023 on the government's policy on information sharing in child safeguarding. This revised Information Sharing Advice forms part of the government's response.

The revised Information Sharing Advice complements *Working Together to Safeguard Children 2018* ("*Working Together*"), which is statutory guidance. The section on information sharing in *Working Together* was amended in December 2020 to alter the focus on 'consent' as the primary legal basis for sharing information. This revision to the Information Sharing Advice seeks to align it more closely with the current text of *Working Together*. The findings of this consultation will feed into a future update of *Working Together*. The information sharing section of *Working Together* is not being updated and consulted on in the Summer 2023 consultation. Any future revisions to the information sharing section of *Working Together* will be subject to separate consultation.

The advice is relevant for all individuals who work with children and families in whatever capacity, and is not intended to replace profession-specific guidance, but to provide a shared set of advice that promotes joined up working and a shared language.

In the development of the revised draft Information Sharing Advice, we have engaged with a broad range of practitioners and local agencies that work with children and families and interested national organisations. We recognise the relevance and importance of the document to many sectors; therefore we hope this consultation can provide us with valuable feedback that will assist in the development of a final version of the Advice.

The purpose of the Information Sharing Advice is to:

- instil confidence in practitioners about the legal framework that supports the sharing of information for safeguarding and promotion of welfare purposes.

- provide a straight-forward guide to practitioners on the core principles of timely and effective information sharing, that can be applied to day-to-day decision making.
- support organisations to develop processes, policies and training for their practitioners about information sharing.

There are 21 questions in this consultation. The questions are grouped across five themes:

- Seven golden rules
- Legal frameworks and concepts
- Practitioner responsibilities
- All content
- Equalities Impact

**We strongly encourage you to read the Information Sharing Advice before completing the questions.** Whilst we know that not everyone will feel able to answer all of the questions asked in this consultation, we urge you to do so where possible. Your feedback will help inform the final revision of the advice.

1 **To help us analyse our responses, could you please tell us what type of agency/organisation your work for?**

(Required)  Local Authority  Health  Police  Education  Voluntary  
 Other

If you chose 'Other' or wish to clarify your response, please describe the role that best describes you?

Other

The Nursing and Midwifery Council (NMC) is the independent regulator for registered nurses and midwives in the UK, and nursing associates in England. You can find out more about us on our website: [What we do - The Nursing and Midwifery Council \(nmc.org.uk\)](https://www.nmc.org.uk)

2 **What is your role within your agency/organisation?**

(Required)  Front line practitioner  Manager  Senior leader (Director, Chief Executive)  Corporate / Administrative  Volunteer  Other

If 'other' please specify:

Policy Team (UK and International)

3 **If you are responding on behalf of your agency/organisation, please provide the name below:**

Nursing and Midwifery Council (NMC)

In terms of our response to this consultation, some of the questions fall outside our regulatory remit or area of expertise. We have therefore focused our response on aspects of the consultation that we view as particularly relevant to the nursing and midwifery professionals we regulate, and where we can best offer our experience and support in our role as regulator.

Where we do not hold a position on a particular question, we have responded with 'we have no comments'.

4 **In sharing findings from this consultation, may we quote from your response?**

(Required)  Yes – anonymously  Yes – attribute to my organisation  No

**The Seven Golden Rules**

**See page 4 of the Information Sharing Advice**

Yes – attribute to my organisation

The Seven Golden Rules are designed to provide practitioners with a quick and straight-forward guide on the core principles of timely and effective information sharing, that can be applied to day-to-day decision making. They have been updated from the 2018 version of the Information Sharing Advice. Whilst they contain similar subject matter to the previous version of the "rules", the content has been reframed and aligns with changed advice relating to the legal framework.

5 **To what extent do you agree that the Seven Golden Rules are a helpful guide to enable practitioners to share information appropriately?**

(Required)  Strongly agree  Agree  Neither agree or disagree  Disagree  
 Strongly disagree

6 **How could we make the Seven Golden Rules more helpful?**

Please outline below:

Neither agree or disagree

The Seven Golden Rules are quite lengthy and contain a lot of text to read, digest and retain. A short summary or diagram could help practitioners to remember and apply the Rules easily and quickly.

7 **Is there anything you find unclear or confusing in the Seven Golden Rules?**

Please outline below:

The Rules and guidance have been developed from the perspective that practitioners are based within organisations or agencies. Whilst this will be the case for most, there are independent practitioners who practise independently and are not part of an organisation. The Rules and guidance could be strengthened by clarifying where these practitioners can seek advice if they are unsure about safeguarding issues and the legal frameworks.

The draft guidance does acknowledge that consent should be considered, but the Seven Golden Rules do not make this clear. For example, Rule 3 states that a person does not need consent to share information. In health and social care, the common law duty of confidentiality also applies meaning that when a person shares information in confidence, health and social care professionals or providers should not disclose it without a valid legal basis. Health and care professionals should always consider and seek consent where appropriate and possible, for example when a child is competent to consent. Practitioners and organisations should be open and honest with individuals and/or their family from the outset as to why, what, how and with whom their information will be shared.

Health and social care professionals can share information without consent if, in their judgement, there is a good and lawful basis to do so, such as where safety and welfare of children or young people may be at risk or disclosure is in the public interest. All practitioners should record their rationale for sharing information without consent or deciding not to share information, and the information shared should be proportionate.

The approach taken in the draft suggests that all practitioners are under the same legal obligations when disclosing confidential information about a child or young person. This doesn't recognise the nuances between different roles and the context in which these roles are performed. We therefore think greater clarity here would be helpful and for the Seven Golden Rules to reflect that health and social care professionals should get consent before sharing confidential information unless there is a legal obligation requiring information to be shared.

## **Legal Framework and Concepts**

***See pages 7-11 and Annex A (Data Protection) page 18-22 of the Information Sharing Advice***

The draft Information Sharing Advice seeks to respond to practitioner confusion and concern about the legal frameworks that support information sharing. It explains data protection legislation and provides advice on the most relevant legal bases for sharing information for safeguarding purposes. It describes the nuances of the meanings of "consent" in data protection terms and in other contexts relevant to safeguarding (e.g. consent to engage with a service).

- 8 **To what extent do you agree that the Information Sharing Advice clarifies how data protection legislation provides a framework for appropriate information sharing to safeguard children.**

(Required)  Strongly agree  Agree  Neither agree or disagree  Disagree  
 Strongly disagree  Don't know

Please explain your answer below:

Agree

It is helpful to clarify that data protection legislation does not prevent the sharing of information for the purposes of safeguarding and promoting the welfare of children and young people where it is necessary, proportionate and justified to do so.

- 9 **To what extent do you agree that the Information Sharing Advice provides reassurance that data protection legislation is not a barrier to information sharing.**

(Required)  Strongly agree  Agree  Neither agree or disagree  Disagree  
 Strongly disagree

Please explain your answer below:

Agree

Regulated health and care professionals already have a professional responsibility to report safeguarding concerns and to take action if they believe a person is at risk. The guidance provides reassurance to practitioners that information can be shared where there is a good reason to do so.

- 10 **To what extent do you agree that “consent” is explained in a helpful way?**

(Required)  Strongly agree  Agree  Neither agree or disagree  Disagree  
 Strongly disagree

Neither agree or disagree

As set out in our response to question 7, practitioners should always consider and seek consent where appropriate and possible. We think this could be made clearer in the guidance.

- 11 **After reading the Information Sharing Advice, are you confident to share information where a child or young person was at risk or perceived risk of harm without relying on consent as the relevant legal basis?**

(Required)  Yes  No  Don't know

Please explain your answer below:

Don't know

We have no comments.

- 12 **How could the advice on the legal frameworks and concepts be improved?**

Please outline below:

Given the complexity and overlapping legislation in this area, we suggest that the legal underpinnings could be explained more clearly to give practitioners clarity.

## Practitioner responsibilities

### **See pages 12 - 17 of the Information Sharing Advice**

The draft Information Sharing Advice provides practitioners with advice on their responsibilities for sharing information in a timely and effective way. The importance of information sharing in safeguarding is frequently emphasised and specific advice is discussed such as the responsibilities to:

- Share information early
- Seek support when uncertain about what and when to share
- Provide feedback to agencies who have shared information

### 13 **To what extent do you agree that the Information Sharing Advice sufficiently explains to practitioners their information sharing responsibilities?**

(Required)  Strongly agree  Agree  Neither agree or disagree  Disagree  
 Strongly disagree

Please explain your answer below:

Agree

The guidance goes some way toward explaining practitioners' information sharing responsibilities, and makes it clear that practitioners should report concerns in line with safeguarding policies and procedures.

The guidance makes reference to sections 17, 31 and 47 of the Children Act 1989. For clarity and context it would be helpful if a summary of these provisions could be provided in the guidance.

It is essential that individuals with a role in safeguarding children and young people receive regular and appropriate education and training to enable them to meet their reporting requirements.

Organisations play an integral role in supporting professionals in receiving regular and appropriate education and training, so that they have the knowledge and skills to effectively meet their individual reporting responsibilities.

As recognised in the guidance, organisations also have a responsibility to ensure robust processes and procedures are in place to share information and that practitioners are supported to understand them and know where they can seek advice where they are in any doubt about sharing information and clarity is required.

14 **How easily can the Information Sharing Advice be applied to the day-to-day role of practitioners so as to support them to share information appropriately?**

(Required)  Very easy  Easy  Neutral  Difficult  Very Difficult

Please explain your answer below:

Neutral

Regulated health and care professionals already have a professional responsibility to report safeguarding concerns.

From a safeguarding perspective the guidance is appropriate and aligns with expectations on how children's (and adults) safeguarding should be delivered in accordance with best practice.

However, as outlined in our response there are areas within the guidance which could be strengthened to help practitioners understand what is expected of them.

### All content

The questions below relate to all content included in the advice. The expectation is that the questions will be considered and answered after reading the entire document.

15 **To what extent do you agree that the Information Sharing Advice supports you to share information to protect children.**

(Required)  Strongly agree  Agree  Neither agree or disagree  Disagree  Strongly disagree

Please explain your answer below:

Neither agree or disagree

We have no additional comments.

16 **Does the Information Sharing Advice complement other relevant guidance that applies to your organisation or profession?**

(Required)  Yes  No  Don't know

Please explain your answer below:

Yes

We do not have separate guidance on safeguarding of children and young people. Our [Code](http://www.nmc.org.uk/standards/code/), (www.nmc.org.uk/standards/code/) - which sets out the core standards of practice and behaviour for nurses, midwives and nursing associates, makes clear that professionals are expected to report and take action if they have



concerns about the safety or welfare of children. In particular, section 17 requires professionals to:

- (17.1) take all reasonable steps to protect people who are vulnerable or at risk from harm, neglect or abuse
- (17.2) share information if you believe someone may be at risk of harm, in line with the laws relating to the disclosure of information
- (17.3) have knowledge and keep to the relevant laws and policies about protecting and caring for vulnerable people

One of the core principles in our Code is that a registrant's primary concern must be to act in the best interest of people in their care at all times (section 4). Nursing and midwifery professionals are expected to seek informed consent (section 4.2), where a child is competent to make the decision, and to protect the confidentiality and dignity of people. They must exercise their professional judgement on a case-by-case basis where there is a compelling reason to take action and if appropriate share information without consent, such as where there is a legal duty, or a situation is sufficiently serious to warrant the sharing of information without consent.

The Information Sharing Advice gives assurance that practitioners can share information without consent for the purpose of supporting the safeguarding and protection of a child or young person. This is in line with standard 17.2 of our Code as outlined above.

All practitioners, including nursing and midwifery professionals should seek advice where they are unsure where a safeguarding issue arises.

17 **To what extent do you agree that the Information Sharing Advice is user friendly?**

(Required)  Strongly agree  Agree  Neither agree or disagree  Disagree  Strongly disagree

Please explain your answer below:

Neither agree or disagree.

We have no additional comments.

18 **Is there anything you find unclear or confusing in the Information Sharing Advice?**

(Required)  Yes  No  Don't know

Please explain your answer below:

Don't know

We have no additional comments.

19 **Is there anything missing from the Information Sharing Advice?**

(Required)  Yes  No  Don't know

What would you like to see? Please provide details below:

No

We have no additional comments.

20 **Do you have any overall comments about the potential impact, whether positive or negative, of our proposed changes on those who share protected characteristics under the Equality Act 2010? Where you identify any negative impacts, we would also welcome suggestions of how you think these might be mitigated.**

(Required)  Yes  No  Don't know

Please explain your answer below:

Yes

Older children/young people are a key group because of the need to balance safeguarding with consent because they are more able to make their own decision than younger children. Professionals should make balanced/proportionate decisions, and should seek support in this decision making from internal safeguarding leads to ensure that information is shared appropriately.

According to the NSPCC ([Safeguarding children who come from Black, Asian and minoritised ethnic communities](#)), children from Black, Asian and minoritised ethnic groups can be overrepresented in the child protection system as a result of underlying racism, stereotypes and biases of reporters. The adultification of Black, Asian and minoritised ethnic children is also a particular concern, as these children may be incorrectly perceived as being less vulnerable to abuse, resulting in concerns being either missed or ignored. To help prevent exacerbating these disparities, it's essential that policies, processes and education and training about sharing information is targeted at addressing underlying biases and understanding how prejudices and bias might impact information sharing and safeguarding decisions.

## Further information

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