

# Pan Bedfordshire Consent Guidance

**Consent means offering individuals real choice and control.** This guidance sets out the issue of consent for practitioners, working with families under and sets out the need to gain consent from parents or those who have parental responsibility, when practitioners wish to:



**Seek information from practitioners in other services and share information with them.**



**Refer to another agency for assessment and provision of services.**

**Please note:** This guidance does not cover consent for medical treatment. A part of the Public Duty of the Police to safeguard life, the Police do not require the consent of a person or parent/carer to make a referral to the Local Authority. However, best practice will be that the Police will record if consent is given or not or provide a rationale as to why consent was not requested. There are specific laws and guidance which enable information to be shared without consent, for example Crime and Disorder Act, Terrorism Act.

Information sharing is a vital part of ensuring that practitioners effectively assess the needs of or the risks to a child. Often it is only when information from a number of sources has been shared that it becomes clear that a child has suffered, or is likely to suffer, significant harm. Early sharing of information is also the key to providing effective Early Help where there are emerging problems. Local Children Safeguarding Practice Reviews and previously Serious Case Review have shown how poor information sharing has contributed to the deaths or serious injuries of children, and [Working Together to Safeguard Children](#) is absolutely clear that

**“Effective sharing of information between practitioners and local organisations and agencies is essential for early identification of need, assessment and service provision to keep children safe.”**

Working Together 2018 includes a Myth-busting guide (see Appendix 2) for information sharing that states:

You **do not** need consent to share personal information. It is one way to comply with the data protection legislation, but not the only way. The UK GDPR provides a number of bases for sharing personal information. It is not necessary to seek consent to share information for the purposes of safeguarding and promoting the welfare of a child provided that there is a lawful basis to process any personal information required.

The legal bases that may be appropriate for sharing data in these circumstances could be 'legal obligation' or 'public task' which includes performance of a task in the public interest or the exercise of official authority. Each of the legal bases under UK GDPR has different requirements.

It continues to be good practice to be transparent and to inform parents/carers (and the child depending on their age and level of understandings) that you are sharing information

for these purposes and seek to work co-operatively with them. Practitioners should therefore usually inform parents/carers that they are going to make a referral.

Sharing information could ensure that a child receives the right services at the right time and prevent a need from becoming more acute and difficult to meet. At the other end of the spectrum it could be the difference between life and death. Where possible, share information with consent, and where possible, respect the wishes of those who do not consent to having their information shared.

The General Data Protection Regulations (GDPR) and the Data Protection Act 2018 supersede the Data Protection Act 1998. The GDPR and Data Protection Act 2018 do not prevent, or limit, the sharing of information for the purposes of keeping children safe. The UK GDPR does not contain specific provisions on capacity to consent, but issues of capacity are bound up in the concept of 'informed' consent. Generally, you can assume that adults have the capacity to consent unless you have reason to believe the contrary. However, you should ensure that the information you provide enables them to be fully informed. To effectively share information:

- 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 one of conditions that allows practitioners to share information with others 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 also 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;
- Practitioners looking to share information without consent should consider which processing condition in the Data Protection Act 2018 is most appropriate in the particular circumstances of the case. This may be the safeguarding processing condition or another relevant provision.

Information may be shared without consent if a practitioner has reason to believe that there is good reason to do so, and that the sharing of information will enhance the safeguarding of a child in a timely manner. When decisions are made to share or withhold information, practitioners should record who has been given the information and why. Wherever possible, practitioners should seek consent and be open and honest with the individual from the outset as to why, what, how and with whom, their information will be shared. They should seek consent where an individual may not expect their information to be passed on. When they gain consent to share information, it must be explicit, and freely given.

There may be times when consent is sought and refused. This does not mean that information cannot be shared. The refusal of consent should be considered in conjunction with other concerns and, if it is considered justifiable, then information can and **MUST** be shared. If practitioners, consider it justifiable to override the refusal in the interests of the welfare of the child then they can do so. This decision must be proportionate to the harm that may be caused by proceeding without consent.

If a practitioner shares information without seeking consent, this should be clearly recorded, including the reasons for not seeking consent. Recording should set out the legal basis under which information is being shared.

**It is important that all practitioners who have contact with children and families are able to have conversations about consent. Not gaining consent where it is needed can cause delay in children and families accessing services that will help meet their needs.**

Consent therefore means the family are fully informed about their information being shared and the services they are being referred to, agree with the referral being made and understand what information will be exchanged and why. It is important to be honest from the outset and to respect the right to privacy of individuals.

Conversations about a worry should usually begin with the family. It is a good way of exploring whether they share the concerns and worries and to assess help that might be needed. If parents or children understand that you are trying to help and are willing to work with you, they may be open to you making a referral to obtain the help they require, which will need their explicit consent.

When you have concerns about the welfare or development of a child wherever possible, the permission of parents/carers/children (as appropriate to age and understanding) should have been sought before contacting the relevant Integrated Front Door MASH/Access Hub.

The following questions will help practitioners ensure that consent is obtained:

- Does the person with parental responsibility know that a request for service is being made?
- If 'Yes', does the person with parental responsibility consent to the sharing of information for:
  - members of the family's network;
  - practitioners to be contacted for further information.
- If this referral is based on information from a third party, are they aware that it is being made?
- Does the child know about this referral?
- Does your Line Manager or Safeguarding Lead know about this referral?

### **Appendix 1: Consent Summary Guidance**

### **Appendix 2: Consent Myth Buster**