

Pan Bedfordshire Practitioner's

Guide to information sharing to safeguard children and young people



“

The sharing of information can be compared to making a jigsaw. You may only have one piece, whilst other agencies may have other pieces, but the degree of its significance may only be clear to another worker with a fuller picture of the background and concerns for this child. Through information sharing we build the jigsaw, see the picture and then make the right decisions

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Bedford Borough, Central Bedfordshire and Luton Safeguarding Children Board's (SCBs) have developed this Pan Bedfordshire Information Sharing guidance for all practitioners and managers working with children, young people and their families within the public, private and third sectors across Bedfordshire and Luton.

This guidance should be read alongside the Governments Information sharing Advice for practitioners providing safeguarding services to children, young people, parents and carers www.gov.uk/government/publications/safeguarding-practitioners-information-sharing-advice

This guidance has been updated to reflect the General Data Protection Regulation (GDPR) and Data Protection Act 2018. On page 14 you will find a copy of a letter from a number of Government departments that spell out their joint commitment to share information effectively for the protection of children following the Rotherham Child Sexual Exploitation case.

What to do if you are worried or concerned about a child or young person?

You should contact the following MASH/ Team or the Police:

Bedford Borough Integrated Front Door.

☎ 01234 718 700 Referral Portal: [click here](#)

Central Bedfordshire Access and Referral Hub

☎ 0300 300 8585 @ cs.accessandreferral@centralbedfordshire.gov.uk

Luton Multi Agency Support Hub (MASH)

☎ 01582 547 653 @ mash@luton.gov.uk

Emergency Duty Team

☎ 0300 300 8123

Police

In an Emergency

☎ 999

Non-Emergency Number

☎ 101

Seven golden rules of Information Sharing

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.

Principles of Information Sharing

These principles are intended to help you share information between organisations. You should use your judgement when making decisions on what information to share and when and should follow organisation procedures or consult with their manager if in doubt.

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. You must always follow your 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.

Sharing Information...

- **Safeguards children and young people and is everyone's responsibility.**
- **Doing nothing is not an option.**
- **Keep your focus on the child or young person.**
- **Adopt a common sense approach.**
- **Use your professional judgment, knowledge and skills - gut feelings.**
- **Do not delay unnecessarily.**
- **Seek help and support via Line Manager/Supervisor/trusted colleague.**
- **Share only what you consider to be necessary, legitimate, appropriate, proportionate and on a need-to-know basis only.**
- **What are the alternatives and/or implications of not sharing information?**
- **Always record your decision and the reasons for it and this includes when a decision is taken not to share information.**

Do not assume that someone else will pass on information which may be critical to keeping a child or young person safe.



Is there a clear legitimate purpose for sharing information?

- Why do you or the other person want the information?
- What is the outcome you are trying to achieve?
- Could the aims be achieved without sharing the information?

Other things to consider;

- Do not assume that you need to share the whole case file.
- Different agencies may have different processes for sharing information.
- You will need to be guided by your organisation's policies and procedures and, where applicable, your professional code of practice.

Explain;

- why you are worried or concerned;
- what the nature of your worry or concern is;
- what you have done about it; and
- what you plan to do about it.

You must always ensure that the child or young person is safe; and keep a record of your worries or concerns and your actions. A worry or concern can relate to a single issue, instance or incident or from a series of such events. **It makes no difference. The principles are the same.**

You should share information which:

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

Share information that you consider relevant, necessary, legitimate, appropriate and proportionate to your worry or concern. You will need to examine any case files and/or electronic record systems you legitimately have access to, if you are to ensure you have all the necessary and relevant information.

No review or inquiry into multi-agency working has ever criticised practitioners for sharing too much information regarding child protection concerns. The reverse is the case, often with potentially devastating consequences for the child, but also for the practitioner.

If the child or young person does chose to share information with you, be sure to act on it.



Consent...

- Do not seek consent in situations where you are likely to share information in any case where there is a child protection concern.
- Should only be sought when the individual has a real choice over the matter.
- Should be informed and explicit – implied consent is not enough.
- Children and young people, subject to their age and developmental capacity, can provide consent, if consent is necessary.
- Must always be recorded on the child or young person's records.

You do not always need consent to share personal information. There will be some circumstances where you should not seek consent, for example, where doing so would:

- Place a child at increased risk of significant harm; or
- Place an adult at increased risk of serious harm; or
- Prejudice the prevention, detection or prosecution of a serious crime; or
- Lead to unjustified delay in making enquiries about allegations of significant harm or serious harm.

Other things to consider:

- Generally, there should be 'no surprises'.
- Obtaining explicit consent is best practice. It can be expressed either verbally or in writing, although written consent is preferable since that reduces the scope for subsequent dispute.
- You will need to consider whose consent should be sought. Does the person have the capacity to understand and make their own decisions on this occasion?
- If not, is someone else authorised to act on their behalf?
- Consent must be informed, i.e. when people agree to information sharing, they must understand how much of their information needs to be shared, who will see it, why it is necessary to share the information, and any implications of sharing or not sharing.
- Consent can be withdrawn at any time.

Children / Young People & Consent

A child or young person who has the capacity to understand and make their own decisions may give (or refuse) consent to sharing. Children aged 12 or over may generally be expected to have sufficient understanding. (This is presumed in law for young people aged 16 or 17.) Younger children may also have sufficient understanding. Where applicable, you should use their preferred mode of communication.

Some helpful criteria...

When assessing whether a child or young person on a particular occasion has sufficient understanding to consent, or refuse consent, to sharing of information about them, consider:

- Can the child or young person understand the question being asked of them?
- Does the child or young person have a reasonable understanding of:
 - What information might be shared?
 - The main reason or reasons for sharing the information?
 - The implications of sharing that information, and of not sharing it?

Can the child or young person...

- Appreciate and consider the alternative courses of action open to them?
- Weigh up one aspect of the situation against another?
- Express a clear personal view on the matter, as distinct from repeating what someone else thinks they should do?
- Be reasonably consistent in their view on the matter, or are they constantly changing their mind?

Consent must be **'informed'** – the child or young person giving consent needs to understand why information needs to be shared, what will be shared, who will see their information, the purpose to which it will be put and the implications of sharing that information. Obtaining explicit, written consent is best practice, as it reduces the scope for subsequent dispute.

If you judge a child or young person to be competent to give consent, then their consent or refusal to consent is the one to consider, even if a parent or carer disagrees. Where parental consent is not required, you should encourage the child or young person to discuss the issue with their parents. However, you should not withhold your support or undertake any actions on the condition that they do so.

Consent should only be sought when the individual has a real choice over the matter. If you have a genuine, professional concern in relation to safeguarding a child or young person that you believe must be shared with another service, agency and/or practitioner with or without consent, there is no requirement to seek consent and you should rely on one of the other conditions for processing as outlined above.

Parental Responsibility & Consent

In most cases, where a child cannot consent or where you have judged that they are not competent to consent, a person with Parental Responsibility should be asked to consent on behalf of the child. If a child is judged not to have the capacity to make decisions, their views should still be sought as far as possible. Where parental consent is required, the consent of one such person is sufficient. You need to ensure parents also have a clear understanding of what they are consenting to and so may need to consider how you communicate if English is not a first language or if a parent has a learning disability.

If you judge a child to be competent to give consent then their consent or refusal to consent is the one to consider even if a parent or carer disagrees.

In situations where family members are in conflict you will need to consider carefully whose consent should be sought. If the parents are separated, **the consent of the parent with whom the child resides would usually be sought**. If the child is subject to a Care Order, practitioners should liaise with the relevant local authority about questions of consent.

You should try to work with all involved to reach an agreement or understanding of the information to be shared. You must always act in accordance with your professional code of practice where there is one and consider the safety and wellbeing of the child, even where that means overriding refusal to consent.

What about sharing information pre-birth?

Sharing information about an unborn child presents additional challenges and 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 there are concerns about foetal development, the mother's health or safeguarding the child when born; share information prior to the birth to ensure appropriate planning and pathways are developed during the pregnancy and protective plans are in place from the moment of birth. Always consider if the unborn child may be endangered or harmed, by their parent's condition, behaviour or lifestyle. It should be explained to the person receiving the information why it was decided to share it. In these circumstances the Pan Bedfordshire Procedure and Guidance in relation to [Pre-Birth Planning and Assessments](#) should be followed.

Mental Capacity Act

Provides the legal framework for assessing capacity and making best interests decisions on behalf of people aged 16 yrs and older who lack the mental capacity to make particular decision(s) for themselves. There are key principles which include the need to provide all possible support to enable the person to make the specific decision(s), and that any best interest decision must consider the less restrictive impact on the person's rights and freedom of action. The Act also includes provisions for people to plan ahead for a time when they may lack capacity in the future. The Act is supported by the **Code of Practice**, which has statutory force. Chapter 12 of the Code describes the relevance of the Act to children and young people, and Chapter 16 provides guidance on access to information. The **SCIE MCA Directory** <http://www.scie.org.uk/mca-directory/> provides further guidance and publications.

Sharing information without consent

You do not necessarily need the consent of the information subject to share their personal information. Wherever possible, you should seek consent or be open and honest with the individual (and/or their family, where appropriate) from the outset as to why, what, how and with whom, their information will be shared.

When there is evidence or reasonable cause to believe that a child is suffering, or is at risk of suffering, significant harm, or information relates to the prevention of significant harm to a child or serious harm to an adult (including through the prevention, detection and prosecution of serious crime), then sharing confidential information without consent will almost certainly be justified on the basis that it is in the public interest. Failure to share information about a parent's lifestyle could put a child at risk.

Of course it is not possible to give guidance to cover every circumstance in which sharing of confidential information without consent will be justified. You must make a **professional judgement** on the facts of the individual case. In many criminal justice contexts it is not feasible to get consent, because doing so may prejudice a particular investigation. However, you should be prepared to be open with the public about the sorts of circumstances in which you may share information without their knowledge or consent.

As you have already read, eliciting the views of children and parents is important and represents good practice, however, even if consent is refused, that does not automatically preclude you from sharing confidential information.

Public Interest

There are also public interests, which in some circumstances may weigh against sharing, including the public interest in **maintaining public confidence in the confidentiality of certain services**.

As already outlined in this guidance, there will be cases where sharing limited information without consent is justified to enable you to reach an informed decision about whether further information should be shared or action should be taken. Remember information shared should be **necessary** for the purpose and **proportionate**.

When deciding whether the public interest justifies disclosing confidential information without consent, you should be able to seek advice from your line manager or a designated safeguarding professional.

If you are working in the NHS or a local authority the **Caldicott Guardian** may be helpful (see <https://www.gov.uk/government/groups/uk-caldicott-guardian-council>). Advice can also be sought from Named Professional/ Safeguarding Leads in individual agencies.

Confidentiality...

- Does not prevent you from sharing a worry or concern about a child or young person's safety - it actually empowers you to do so.
- 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 justified.

Confidential information is:

- Personal information of a private or sensitive nature; and
- Information that is not already lawfully in the public domain or readily available from another public source; and
- Information that has been shared in circumstances where the person giving information could reasonably expect that it would not be shared with others.

Circumstances relevant to confidentiality

- A formal confidential relationship exists, as between a doctor and patient, or between a social worker, counsellor or lawyer and their client. It is generally accepted that information shared in this case is provided in confidence. In these circumstances, all information provided by the individual needs to be treated as confidential. This is regardless of whether or not the information is directly relevant to the medical, social care or personal matter that is the main reason for the relationship.
- An informal conversation, where a pupil may tell a teacher a whole range of information but only asks the teacher to treat some specific information as confidential. In this circumstance, only the information specific to the pupil's request would be considered to be confidential.
- Circumstances where information not generally regarded as confidential (such as name and address) may be provided in the expectation of confidentiality and therefore should be considered to be confidential information.

People may not specifically ask you to keep information confidential when they discuss their own issues or pass on information about others, but may assume that personal information will be treated as confidential. In these situations you should check with the individual whether the information is or is not confidential, the limits around confidentiality and under what circumstances information may or may not be shared with others.

Seek advice if you are in any doubt, without disclosing the identity of the person where possible.



Legislation...

- Does not prevent you from sharing information – it empowers you.
- Provides you with a legal framework within which information can be shared.
- Helps you to weigh up the benefits and risks.
- Is based upon common sense principles.

Remember, *nothing whatsoever* in UK Law *prevents you* from sharing information where you are worried or concerned about a child or young person's wellbeing. *On the contrary, you are, within certain limitations and constraints, empowered to do so.*

Myth-busting guide

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. Below are common myths that can act as a barrier to sharing information effectively:

The GDPR and Data Protection Act 2018 are barriers to sharing information

No – the GDPR and Data Protection Act 2018 do not prohibit the collection and sharing of personal information. They provide a framework to ensure that personal information is shared appropriately. In particular, the Data Protection Act 2018 balances the rights of the information subject (the individual whom the information is about) and the possible need to share information about them. Never assume sharing is prohibited – it is essential to consider this balance in every case. You should always keep a record of what you have shared.

Consent is always needed to share personal information

No – you do not necessarily need the consent of the information subject to share their personal information.

Wherever possible, you 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. You should seek consent where an individual may not expect their information to be passed on. When you gain consent to share information, it must be explicit, and freely given.

There may be some circumstances where it is not appropriate to seek consent, either because the individual cannot give consent, it is not reasonable to obtain consent, or because to gain consent would put a child or young person's safety or well-being at risk.

Where a decision to share information without consent is made, a record of what has been shared should be kept.

Personal information collected by one organisation cannot be disclosed to another organisation

No - this is not the case, unless the information is to be used for a purpose incompatible with the purpose it was originally collected for. In the case of children in need, or children at risk of significant harm, it is difficult to foresee circumstances where information law would be a barrier to sharing personal information with other practitioners.

Practitioners looking to share information should consider which processing condition in the Data Protection Act 2018 is most appropriate for use in the particular circumstances of the case. This may be the safeguarding processing condition or another relevant provision.

The common law duty of confidence and the Human Rights Act 1998 prevent the sharing of personal information

No - this is not the case. In addition to the GDPR and Data Protection Act 2018, practitioners need to balance the common law duty of confidence, and the rights within the Human Rights Act 1998, against the effect on children or individuals at risk, if they do not share the information.

If information collection and sharing is to take place with the consent of the individuals involved, providing they are clearly informed about the purpose of the sharing, there should be no breach of confidentiality or breach of the Human Rights Act 1998. If the information is confidential, and the consent of the information subject is not gained, then practitioners need to decide whether there are grounds to share the information without consent. This can be because it is overwhelmingly in the information subject's interests for this information to be disclosed. It is also possible that a public interest would justify disclosure of the information (or that sharing is required by a court order, other legal obligation or statutory exemption).

In the context of safeguarding a child or young person, where the child's welfare is paramount, it is possible that the common law duty of confidence can be overcome. Practitioners must consider this on a case-by-case basis. As is the case for all information processing, initial thought needs to be given as to whether the objective can be achieved by limiting the amount of information shared - does all of the personal information need to be shared to achieve the objective?

IT Systems are often a barrier to effective information sharing

No - IT systems, such as the Child Protection Information Sharing project (CP-IS), can be useful in supporting information sharing. IT systems are most valuable when practitioners use the data that has been shared to make more informed decisions about how to support and safeguard a child. Evidence from the Munro Review is clear that IT systems will not be fully effective unless individuals from organisations co-operate around meeting the needs of the individual.

Different agencies may have different standards for sharing information. You will need to be guided by your agency's policies and procedures, any local information sharing protocols, and - where applicable - by your professional code.

Where information being considered relates to clear child protection concerns you should be in no doubt that there are no insurmountable legal barriers to sharing information appropriately, and a demonstrably proportionate sharing of information can be justified as being in the public interest.

Methods of information sharing...

- Share & exchange information in a working relationship & built on mutual trust & respect.
- Record the reasons why you are/or not sharing information.
- Keep all information safe and secure at all times.
- Always identify the person you will be 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 email policy - always use secure email.

Access to personal information

The law says: Individuals have a right of access to information about them.

You will need to familiarise yourself with your organisations own processes. Best practice would be to show service users their records at the point of engagement. Good records management practice will need to be developed in which each organisation keeps a brief record of where other information is held. In rare instances, you may feel that it is not in the public interest for a service user to access some information held about them. The rough yardstick for gauging this is to think about the effect that releasing the information would have on the individual or a vulnerable other. In every instance where the right way forward is unclear, further help should be sought in supervision or from a manager and, where appropriate, a legal advisor.

It is good practice to identify a single point of contact for people to go to when they want to access their information, and to make people aware of this facility, maybe as part of the consent process.



The Freedom of Information Act

The Freedom of Information Act 2000 and the Freedom of Information (Scotland) Act 2002 gives everyone the right to ask for information held by a public authority, to be told whether the information is held, and, unless exempt, to have a copy of the information. Service users may make requests for information that is partially personal and partially non-personal. For example, a person may request information about them that is being shared between various agencies, and ask for information about those agencies' policies for sharing information. You should refer to your organisation's Freedom of Information publication scheme for further information on how to respond to such requests.



Department
of Health



Home Office



Department for
Communities and
Local Government



Ministry
of Justice



3 March 2015

To the Chief Executives of local authorities, Directors of Children's Services, Police and Crime Commissioners, Local Safeguarding Children's Boards, Health and Wellbeing Boards and GPs.

Our joint commitment to share information effectively for the protection of children

Today we have issued the Government's response to the chronic failures to protect children from sexual exploitation in Rotherham, which were the subject of recent reports by Alexis Jay and Louise Casey. The findings of these reports show that organised child sexual exploitation had been happening on a massive scale, over many years. This complete dereliction of duty in safeguarding vulnerable children is shocking. But it is not unique to Rotherham. We must use the tragedies experienced here and elsewhere across the country as opportunities to transform our processes, our ways of working and our cultures to tackle this threat. A key factor in this is sharing information. This letter sets out how and when personal information should be shared.

We all know that decisions to share information, with whom and when, can have a profound impact on a child's life. These decisions enable action to disrupt and deter offenders early on, to protect children from risk and support them to recover from the harm they may have suffered. These decisions can even mean the difference between life and death.

There can be no justification for failing to share information that will allow action to be taken to protect children. We know that skilled frontline staff can be hesitant and uncertain as to when and how they should be sharing information with other agencies. There can be many reasons for that, including a blame culture, bureaucracy and a fear of being challenged. Professional staff need to be able to make these crucial decisions on a day to day basis. They need clarity and simple guidelines about when and how personal information should be shared.

An overview of the existing legislation and guidance on information sharing is annexed to this letter, together with a summary of our package of cross-Government information sharing guidance which will be published by the end of March 2015. The golden thread throughout all of this is that the duty to safeguard children must be paramount. Let's be absolutely clear - a teenager at risk of child sexual exploitation is a child at risk of significant harm. Nothing should stand in the way of sharing information in relation to child sexual abuse, even where there are issues with consent. The updates we are making to the Working Together to Safeguard Children guidance will be clear on everyone's responsibility in this regard. We will also publish a myth busting guide to help professionals take informed decisions.

Of course, failures to share information are not just due to legal barriers. We, as Secretaries of State, are clear on the need for genuinely integrated multi-agency approaches to underpin information sharing. Local processes or models must ensure that the right input from the right agencies is reflected and considered as part of risk assessments at the right time and in the right way, with jointly agreed and executed actions.

Every agency should commit to this approach. Local areas should consider the following principles for multi-agency working¹:

- **Integrated working (e.g. co-location)** – Close collaboration in multi-agency working is essential in developing 'real time' risk assessments to enhance decision making. A truly integrated approach helps to break down cultural barriers, leading to greater understanding and mutual respect among different agencies.
- **Joint risk assessments** – these ensure clear and sufficient information about particular cases and joint plans for individual interventions.
- **A victim focused approach** – the needs of the victim must be at the forefront of our approach not systems and processes.
- **Good leadership & clear governance** – strong leadership can often bind different organisations together to develop a shared culture.
- **Frequent review of operations** – to continue to drive improvement of service.

We know that there have been persistent and complex barriers to the effective sharing of information over the course of many years. We also appreciate that implementing the changes outlined in this letter will require sustained efforts at the local level. But it can and must be achieved. As leaders, you are responsible for developing a culture where the interests of the child are put first through championing the appropriate sharing of information and dealing robustly with staff who block, hinder or fail to share.

¹ Further detail on best practice arrangements can be found in the Multi Agency Working and Information Sharing Project Final Report, July 2014, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/301111/MASH.pdf

We understand that the Information Commissioner is today welcoming our initiative. This is a joint commitment. If there is anything more we can do to support you in achieving the goals set out in this letter please do not hesitate to tell us.

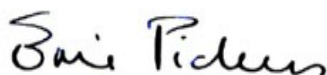
Sincerely




THERESA MAY



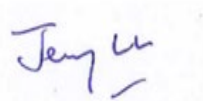
NICKY MORGAN




ERIC PICKLES



CHRIS GRAYLING



JEREMY HUNT


 **BBSCB Business Unit Office**
Room 509, Borough Hall
Cauldwell Street
Bedford MK42 9AP

 **01234 276512**

 **LSCB@bedford.gov.uk**

 **www.beford.gov.uk/lscb**




 **CBSCB Business Unit Office**
Watling House
High Street North, Dunstable
Bedfordshire LU6 1LF

 **0300 300 6455**

 **LSCB@centralbedfordshire.gov.uk**

 **www.bedfordshirelscb.org.uk**



 **LSCB Business Unit Office**
Town Hall Extension, Gordon
Street Entrance, Gordon Street
Luton LU1 2BQ

 **01582 547624 or 01582 547590**

 **Safeguarding@Luton.gov.uk**

 **www.lutonlscb.org.uk**

