



County Durham
SAFEGUARDING ADULTS
INTER-AGENCY PARTNERSHIP



Safe Durham Partnership

County Durham Protocol

Collaborative Working and Information
Sharing between Professionals to protect
Vulnerable Adults, Young People and
Children

Revised 2016

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Introduction

This protocol provides the framework for collaborative working and calls for a positive approach from services and agencies to work together to protect vulnerable adults, young people and children.

The motivation to deliver services in a joined up and integrated way in County Durham is well established. This is further enhanced by strategic initiatives such as Think Family; Team around the Family; Team around the School; Multi-agency Safeguarding Hub (MASH), Multi-agency Intervention Service (MAIS) and the ERASE Team (Educate and Raise awareness of Sexual Exploitation) to name a few.

It is essential that collaborative working and good information sharing is established and embedded throughout agencies, at all levels, which is then delivered through effective practice by a variety of practitioners.

Key Legislation such as the Crime and Disorder Act 1998; Police and Justice Act 2006; The Children Acts of 1989 and 2004; Data Protection Act 1998; Human Rights Act 1998; Freedom of Information Act 2000 and The Care Act 2014, provide the foundation of all Information Sharing Protocols.

Section 115 of the Crime and Disorder Act 1998 and the Data Protection Act 1998 (exemptions 29 and 35) both contain specific reference to personal information sharing on a case by case basis for the purposes of preventing crime and disorder.

The Care Act 2014 which was implemented in April 2015, compliments the principles set out in this document.

It enshrines in law the need for organisations to cooperate with one another and share information to make sure people receive the best possible care and support. It has introduced a new 'duty to cooperate' to ensure organisations share information where there is concern about an adult with needs for care and support.

Signatories

This protocol is applicable to all County Durham NHS, social care, educational statutory, independent, voluntary and community sector services and organisations working with vulnerable Adults, Young People and Children.

This protocol has been formally ratified by the Safe Durham Partnership, Durham Local Safeguarding Children Board and Durham Safeguarding Adults Inter-Agency Partnership Board.

Vision Statement

Partners to this protocol recognise that:

- Safeguarding vulnerable members of the community, whatever their age, is a shared responsibility and requires effective planning of services at both strategic and practitioner levels
- Effective service delivery depends upon proficient information sharing; continued collaboration; understanding and mutual respect between agencies and professionals
- Constructive relationships between individual practitioners need to be supported by a strong lead from elected and appointed authority members and the commitment of and leadership from chief officers and senior managers of partner organisations
- Individual practitioners need to be facilitated in meeting their responsibilities under this protocol through the provision of appropriate training, adequate resources and high quality management support and supervision.

The partners to this protocol agree to:

- Actively implement the protocol within their own agency by:
 - Promoting ownership of it at all levels
 - Ensuring dissemination to all staff
 - Agreeing a training programme
 - Monitoring implementation and compliance
- Ensure that staff are familiar with and adhere to the procedures set out in this protocol
- Ensure that all service-specific procedures and guidelines are consistent with the principles of this protocol
- Audit compliance to the protocol within their own agency

Aims

This protocol has been prepared both to formalise and facilitate providers to work together in the provision of services to vulnerable adults¹ and children² and family units in order to:

- Promote best practice in all areas of inter-agency working
- Promote the appropriate uptake of services, the early identification of need and timely intervention to address unmet need
- Ensure effective communication and liaison between service providers and across service divisions

The protocol is applicable to all services provided to adults and children living in County Durham where the intention of that service is to promote, augment and safeguard the welfare and wellbeing of its recipients.

The protocol recognises the increasing division of providers into discrete specialist service units. This coupled with the growing complexity and volume of legislation and statutory and professional guidance, particularly in the area of cross and intra-agency information sharing, has led to levels of uncertainty as to when, how and to what degree practitioners³ can and should collaborate with each other in the delivery of services to individuals and to families.

¹ Any adult over the age of 18 who has needs for care and support (whether or not the local authority is meeting any of those needs) and is experiencing, or at risk of, abuse or neglect, domestic violence, substance misuse or whose welfare is compromised by another adult

² For the purposes of this protocol the terms child/children are used to describe both children and young people under 18 years old

³ The individual who is employed by the service provider directly or indirectly (e.g. through external commissioning) to provide or cause to be provided a service. This term also refers to students on placement and volunteers.

Principles

The protocol is based on the following key principles:

- In all situations the welfare and safety of the child is paramount, even when this conflicts with the perceived interests of the parent or carer. Where ever possible consideration should be given to the needs of all family members. This principle applies to services for both adults and children.
- The management of risk including the risk to both adults or children and the risk to the wider community is a shared responsibility. As such all organisations and those employed by them have a professional duty to participate in the identification, assessment and management of risk.
- All organisations and practitioners have a duty of care to services users⁴ whether the service user is an adult or child. Professionals should share information appropriately with others, both within and outside of their organisation; when to do so would promote the welfare of either the service user or any other individual, be it an adult or child.
- The sharing of information will also be necessary to ensure that professionals working with service users or their families or associates are protected.

⁴ The individual who is the primary receiver or beneficiary of a service. The term 'service user' incorporates the terms 'patient' and 'client'.

Information Sharing – Consent and the Public Interest

The importance of effective, relevant and proportionate information sharing to safeguard both adults and children is recognised by both the multi-agency Safeguarding Children and Adult's Boards in County Durham.

Serious Case Reviews and Domestic Homicide Reviews locally and nationally frequently comment on either the absence of, or ineffective, information sharing which impacts on the effective risk assessment of a child or an adult's safety.

Professionals can lack confidence about when they should share information and whether they need consent to do so.

The Data Protection Act is not a barrier to sharing information but provides a framework to ensure that personal information about living persons is shared appropriately.

The Children Acts of 1989 and 2004 together with Government Guidance, Public Inquiry report findings and UK and European case law recognise that protecting people is inter-disciplinary and requires cooperative partnership and multi-agency collaboration, which includes the exchange of information, which should be multi-agency.

This sharing of information can involve the relevant sharing of matters recorded on IT systems, the sharing of reports as well as discussions between professionals. Collectively, this helps professionals to make recommendations and appropriate decisions.

Below are extracts taken from Caldicott principles, current Government guidance and the Durham Local Safeguarding Children Board 8 Golden Rules which are helpful in considering the justification for the sharing of information.

Caldicott principles

Dame Fiona Caldicott first investigated issues surrounding confidentiality and the use of patient data in the NHS in 1996-97. This saw the introduction of the 'Caldicott Principles' and the appointment of Caldicott guardians to take responsibility for the security of confidential information.

Dame Fiona has reviewed these arrangements and published a report in April 2013 'Information to share or not to share: the information governance review' which has been accepted by the Government.

This lengthy report addresses several aspects of information sharing and recognises the practical issues faced by professionals as evidenced by the following extracts:

Chapter 3: Direct care of individuals

When it comes to sharing information, a culture of anxiety permeates the health and social care sector. Managers who are fearful that their organisation may be fined for breaching data protection laws are inclined to set unduly restrictive rules for information governance. Front line professionals who are fearful of breaking these

*rules do not cooperate with each other as much as they would like by sharing in the interests of patients and service users. There is also a lack of trust between the NHS and local authorities and between public and private providers due to perceived and actual differences in information governance practice. **This state of affairs is profoundly unsatisfactory and needs to change.***

Sharing personal information effectively is a key requirement of good information governance and cultural change in the health and social care system is key to achieving this. Many projects, pilots and demonstrators have highlighted how sharing information securely can work for the benefit of patients and service users.

The Caldicott review found a strong consensus of support among professionals and the public that the safe and appropriate sharing of information in the interests of the individual's direct care should be the rule not the exception.

This has coincided with a new Caldicott Principle:

That the duty to share personal confidential data can be as important as the duty to respect service user confidentiality.

Health and social care professionals should have the confidence to share information in the best interests of their patients within the framework set out by these principles. They should be supported by the policies of their employers, regulators and professional bodies.

A culture change is needed to encourage sharing of relevant personal confidential data among the registered and regulated health and social care professionals who have a legitimate relationship with the patient or service user.

HM Government Information Sharing: Guidance for practitioners and managers (2014)

This guidance applies to both adults and children. The guidance addresses the issue of sharing information without consent when a person's safety is at risk, as well as sharing information for the purposes of the prevention and detection of a crime.

The following extracts assist in decision making:

Paragraph 3.30 - *it is good practice to seek consent of an adult where possible. All people aged 16 and over are presumed in law to have the capacity to give or withhold their consent to sharing confidential information unless there is evidence to the contrary.*

Paragraph 3.41 - *It is not possible to give guidance to cover every circumstance in which the sharing of confidential information without consent will be justified.*

You must make a judgement on the facts of the individual case. Where there is clear risk of significant harm to a child or serious harm to an adult, the public interest test will almost certainly be satisfied (except as described in 3.43). There will be other

cases where you will be justified in sharing limited confidential information in order to make decisions on sharing further information or taking action – the information shared should be necessary for the purpose and be proportionate.

Paragraph 3.42 – There are some circumstances in which sharing confidential information without consent will normally be justified in the public interest. These are:

- When there is evidence or reasonable cause to believe that a child is suffering, or is at risk of suffering, significant harm; or*
- When there is evidence or reasonable cause to believe that an adult is suffering, or is at risk of suffering, serious harm; or*
- To prevent significant harm to a child or serious harm to an adult, including through the prevention, detection and prosecution of serious crime*

Paragraph 3.43 - An exception to this would be where an adult with capacity to make decisions (see paragraph 3.30) puts themselves at risk but presents no risk of significant harm to children or serious harm to other adults. In this case it may not be justifiable to share information without consent.

IF THE SERVICE USER CONSENTS TO SHARE THEN THE INFORMATION SHOULD BE SHARED

Eight Golden Rules for Information Sharing

1. Remember that the Data Protection Act is not a barrier to sharing information but provides a framework to ensure that personal information about living persons is shared appropriately.

2. If there are concerns that a child may be at risk of significant harm or an adult at risk of serious harm, then it is your duty to follow the relevant procedures without delay. Seek advice if you are not sure what to do at any stage and ensure that the outcome of the discussion is recorded.

3. Be open and honest with the person (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.

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

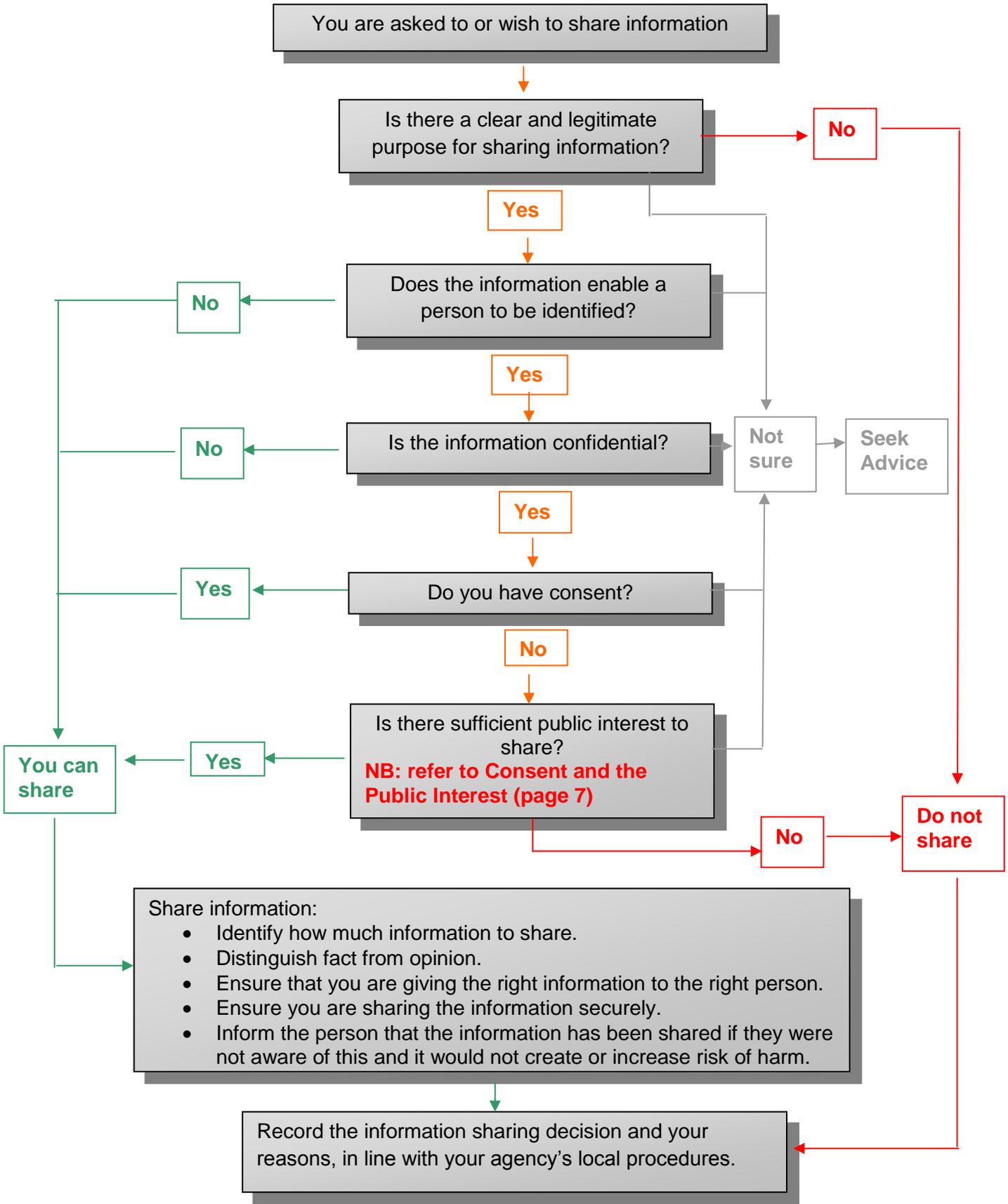
5. Share with consent where appropriate and, where possible, respect the wishes of those who do not consent to share confidential information. You should go ahead and share information without consent if, in your judgement, that lack of consent can be overridden in the public interest, or where a child is at risk of significant harm. You will need to base your judgement on the facts of the case.

6. Consider safety and well-being: Base your information sharing decisions on considerations of the safety and well-being of the person and others who may be affected by their actions.

7. Necessary, proportionate, relevant, 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 people who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely.

8. 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.

Flowchart of key questions for Information Sharing



If there are concerns that a child may be at risk of significant harm or an adult may be at risk of serious harm, then follow the relevant procedures without delay. Seek advice if you are not sure what to do at any stage and ensure that the outcome of the discussion is recorded.

Collaborative Working

Duty of Care

Statutory agencies and all those they employ have a professional duty of care towards vulnerable members of society. This is enshrined in both legislation and in professional and ethical codes of conduct and reinforced by government guidance. In tandem with this is the requirement that service providers work together at all levels to ensure that duty of care obligations are fulfilled.

Traditionally this has been viewed almost entirely in terms of safeguarding children. However there has been a growing recognition, underpinned by policy developments, that the concept of duty of care and with it the need for collaborative working extends beyond the arena of child protection.

Professional duty of care is now seen to encompass both adults and children who are vulnerable not just to harm but also to their welfare being adversely affected without the provision of services.

As a consequence all practitioners and managers involved with service provision need to be mindful of their professional responsibility to ensure that if they are made aware of or they identify an adult or child who appears to require services that they cannot provide then they take the appropriate action to initiate an assessment for service. This is irrespective of whether or not the adult or child concerned is the person to whom they are providing a service.

Situations That Require Collaborative Working

In child protection it is essential that all agencies tasked with statutory child protection responsibilities are able to assess the family and social circumstances.

Child protection involves:

- Assessing family and environmental factors such as family history and functioning (including lifestyle)
- The family's peer groups, friendships and social networks
- Wider family connections and the family's social integration

The assessment of harm for children may include an analysis of a single incident or event or a compilation of incidents, both acute and long standing, which interrupt, change or damage a child's physical and psychological development.

Experience has shown that:

- A single agency or service is unlikely to have or be able to access all the relevant information which helps to assess the risk of harm
- Risk assessment is a continuous, dynamic process. Risk can change quickly, sometimes daily and because of this different agencies or services will have information which, if shared, may escalate or even reduce risk

- The public and government expect agencies and services to share information to protect adults and children and trust professionals to do the right thing. In some cases this is a professional judgement call for those involved, commonly referred to as making a proportionate response.

The duty of care responsibility within the Care Act 2014 also gives rise to an obligation to work collaboratively with others when:

- **Different services are being provided to different members of the same family unit or extended family network.** *NB it is not necessary for family members to be part of the same household to be considered as part of the same family unit. For example collaboration would be required in a case where a father was in receipt of mental health services and had contact with but was not living with a child in receipt of learning disability services.*

Where such situations exist then some level of collaborative working must take place. However the nature and extent of such work will be dependent upon:

- Individual circumstances of the service user
- The nature of the services being provided and the type of provider
- The legal and procedural context in which services are being provided
- Local initiatives and agreements
- Service specific inter-agency agreements

Such working may include:

- Joint assessment (including risk assessment)
- Joint planning and review
- Joint service provision/funding
- Co-working

It **must** include:

- Robust mechanisms for the timely and efficient exchange of information
- The routine and timely sharing of risk management plans
- Routine and sustained communication including processes for the notification of significant events including but not limited to case transfer, withdrawal of or from the service and case closure

What should be shared?

Agencies across County Durham are committed to delivering Early Help in safeguarding. This relies on effective information sharing at an early stage to prevent matters escalating.

In safeguarding, the ability to share information without consent, or in the public interest, centres on 2 factors:

- Whether there is **evidence or reasonable cause to believe** that someone is suffering, **or is at risk of suffering**, significant harm **and/or**
- To prevent significant harm to someone, including through the prevention, detection and prosecution of serious crime

In any given circumstances, both these factors may be present or only one.

Professionals must recognise that the information sharing factors do not rely on a professional having evidence of significant harm. Having **a reasonable cause to believe** that information sharing is necessary to prevent a child or adult from suffering significant harm in the future is equally important.

When a child is exposed to physical or sexual abuse, professionals generally recognise this as significant harm and will share this information.

However there are situations, often relating to the parents of the child or connected with the child's home or family circumstances, where professionals **should** share information. Often this is linked to parental problems around alcohol and drug use, domestic abuse or parents who may have mental health problems. These are often referred to as 'hidden harm' risk indicators.

The sharing of information is also necessary where parents are failing to address their responsibilities to clothe, feed and nurture a child.

The sharing of information under both circumstances is proportionate and necessary to help professionals understand how this may impact on children and assist agencies to coordinate the right support, at the right time, both for the parents and the child.

Similarly adults can suffer or be at risk of significant or serious harm through physical or sexual abuse. This can occur through exploitative, coercive and controlling relationships often seen in domestic or elder abuse.

The sharing of information under these circumstances is proportionate and necessary to protect adults and to prevent serious crime.

Roles and Responsibilities

Roles and Responsibilities of Line Managers

Effective and safe inter-agency working is dependent on appropriate systems being in place for management oversight and case supervision.

As such, in addition to their standard duties, this protocol requires that line managers must ensure:

- That any practitioner/manager for whom they have line management responsibility:
 - Complies with the requirements of this protocol
 - Has thorough knowledge of their agency procedures regarding information sharing and joint working with other agencies.
 - Is aware of where to get advice and guidance relating to information sharing and joint working
 - Is clear about the requirements of their own agency and any relevant professional codes of conduct regarding their duty of care towards those in need of services to promote their welfare and maintain their safety
 - Is clear that the need to protect the safety and welfare of others (including those employed by their own and other agencies) always is paramount over any perceived right of confidentiality of the service user. Failure to disclose information to other agencies that would serve to protect any other person is not justifiable under any circumstances and liable to result in disciplinary measures
 - Whose professional conduct or attitude negatively impacts on collaborative work is appropriately challenged
- That situations requiring some form of collaborative working are identified and that the appropriate action is taken
- That salient issues arising from the collaborative process are identified and reported back through the relevant management structure
- That all decisions made during collaborative working continuously reflect best practice and are consistently in the best interests of the service user
- Standards regarding recording, communication and timescales are adhered to

Roles and Responsibilities of Practitioners

The potential benefits to service users and their families of providers working collaboratively will only be maximised if practitioners contribute fully, cohesively and effectively to that process. The Eight Golden Rules for Collaborative Working build upon the Eight Golden Rules for information sharing. Together they form the basis for effective collaboration.

Eight Golden Rules for Collaborative Working

1. **Ask the question:** Whilst always respecting their right to maintain confidentiality, find out from the person / family you are working with who else is providing services to them. Be open and honest about why you want this information.
2. **Be Proactive:** Don't assume other practitioners are aware of your involvement with an individual / family – take action to make sure they know.
3. **Always consider duty of care issues** – be mindful of your professional responsibility to ensure that if you identify an adult or child who appears to need additional services to promote their welfare, that you take action to instigate these services.
4. **Initiate, contribute to and participate in** collaborative working. The effectiveness of such working and the positive benefits it will bring to the service user is dependent on the involvement of all parties. Remember that some level of collaborative working between practitioners is the expectation not the exception.
5. **Be knowledgeable** about the procedural requirements and professional codes of conduct that apply to you and your work including those regarding information sharing. Seek advice if in any doubt and know where to get that advice.
6. **Think safety:** Always bear in mind that the need to protect the safety and welfare of others (including those employed by your own and other agencies) **always** is paramount over any perceived right of confidentiality of the service user. **Failure to disclose information to other agencies that would serve to protect any other person is not justifiable under any circumstances and liable to result in disciplinary measures.**
7. **Keep a record** of all your actions in the collaborative working process and the reasons for it. If a decision is made not to work collaboratively with others (including not to share information) ensure this is recorded in full, the reasons given and details of who was involved in that decision documented.

And always remember that:

8. **If there are concerns that a child may be at risk of significant harm or an adult at risk of serious harm, then it is your duty to follow the relevant procedures without delay. Seek advice if you are not sure what to do at any stage and ensure that the outcome of the discussion is recorded.**

Escalation Policy for Collaborative Working and Information Sharing Protocol

As a result of the recommendations of a Mental Health Homicide Review, the Safeguarding Adults Board and LSCB have developed an Escalation Policy to deal with disputes and disagreements between agencies.

All agencies may encounter difficulties from time to time when they are working with a vulnerable adult or child and need the co-operation, involvement and information from other agencies or organisations. These organisations include any provider who has contractual obligations with statutory organisations e.g. Care Homes.

All agencies or organisations need to have the power to escalate situations when they feel that they are not receiving a satisfactory response to requests for collaborative working in respect of a vulnerable adult or child.

Every attempt should be made to resolve issues at a local, operational level. However, where every attempt has been made to resolve matters informally via discussions, meetings, and formal requests, any agencies can invoke this Escalation Policy.

The relevant agency will notify the Senior Manager in their organisation and request that they speak to the Senior Manager for the organisation they are having difficulty with.

Where safeguarding or adult protection matters are concerned, the relevant SAB or LSCB Board representative will need to be identified to facilitate a solution to ensure that the principles and practice of this protocol are adhered to. This extends to providers as stated above because of their responsibilities in terms of contractual compliance.

Please use the letter templates Appendix 1, 2,3 to escalate the concerns. Other organisations can adjust this template as required.

Collaborative Working Information Sharing Escalation Policy Template

Address Line

To whom it may concern

Dear Sir,

We are currently experiencing difficulties with your organisation/agency in respect of working with

In order to provide the best care and protection for this vulnerable adult/child, we require support, information and expertise from yourselves.

All partner organisations/agencies in County Durham are required to comply with the:

Collaborative Working and Information Sharing Between Professionals to Protect Vulnerable Adults and Children 2016.

Please will you provide the necessary information and expertise in the interests of the vulnerable adult/child concerned.

Yours faithfully

Name

Title

Collaborative Working Information Sharing Escalation Policy Template

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Name

Title

Appendix 3

Contact:
Direct Tel:
Fax:
email:
Your ref:
Our ref:



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www.durham.gov.uk