



## Staffordshire and Stoke on Trent Adult Safeguarding Partnership Board (SSASPB)

# Information Sharing Guidance for Practitioners

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## SSASPB Information Sharing Guidance for Practitioners (v1)

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### **Introduction and purpose of the guidance.**

A recurring factor in serious case reviews (now Safeguarding Adult Reviews) has been a failure to understand the legislation and guidance surrounding information sharing and a failure to share information effectively.

An analysis of 18 Serious Case Reviews across London over a two year period (Bestjan, 2012) found that almost all (94%) highlighted issues regarding information handling, incorporating both record keeping and information sharing.

This document provides guidance to front line staff and managers and explains why and how we share information between agencies who are involved in Adult Safeguarding. It has been produced taking the Care Act 2014 into consideration and will be refreshed periodically to provide the best possible current guidance.

The Care Act statutory guidance (October 2014: Chapter 14 paragraph 34) states that:

*Early sharing of information is the key to providing an effective response where there are emerging concerns.*

*To ensure effective safeguarding arrangements:*

*All organisations must have arrangements in place which clearly set out the processes and principles for sharing of information between each other, with other professionals and the Safeguarding Adult Board, this could be via an Information Sharing Agreement to formalise the arrangements and no professional should assume that someone else will pass on information which they think may be critical to the safety and wellbeing of the adult. If a professional has concerns about the adult's welfare and believes they are suffering or likely to suffer abuse or neglect, then they should share information with the Local Authority and, or, the Police if they believe or suspect that a crime has been committed.*

### **Staffordshire and Stoke on Trent Adult Safeguarding Partnership Board (SSASPB) and information sharing**

In order to carry out its functions, the SSASPB will need access to information that a wide number of people or other organisations may hold. Some of these may be SSASPB members, such as the NHS and the police. Others will not be, such as private health and care providers or housing providers/housing support providers or education providers.

In the past, there have been instances where the withholding of information has prevented organisations being fully able to understand why decisions and actions were or were not made and so has hindered them identifying, to the best of their ability, the lessons to be applied to prevent or reduce the risks of such cases reoccurring. If someone knows that abuse or neglect is happening they must act upon that knowledge, not wait to be asked for information.

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Section (or clause) 45 of the Care Act states that:

The SAB (Safeguarding Adult Board) may request a person to supply information to it or to another person. The person who receives the request **must** provide the information provided to the SAB if:

- the request is made in order to enable or assist the SAB to do its job;
- the request is made of a person who is likely to have relevant information and then either:

i) the information requested relates to the person to whom the request is made and their functions or activities or;

ii) the information requested has already been supplied to another person subject to a SAB request for information.

This has been described as a mandate to share information - a demand power – with clear expectations that it will be adhered to.

The request for information sharing will most likely take place to facilitate S.42 Care Act: 'enquiries' and S.44 Care Act: Safeguarding Adult Reviews.

### **Record keeping**

Good record keeping is a vital component of professional practice. Whenever a complaint or allegation of abuse is made, all agencies should keep clear and accurate records and look for past incidents, concerns, risks and patterns. Detailed, relevant record keeping will greatly improve the opportunity to safeguard the adult.

Staff should be given clear directions as to what information should be recorded and in what format.

Records should be kept in such a way that the information can easily be collated for local use and national data collections.

### **Confidentiality**

Any confidentiality agreement drawn up between agencies agreement should be consistent with the below listed principles set out in the Caldicott Review published in 2013.

1. Justify the purpose(s) for needing the personal confidential information
2. Do not use personal confidential information unless it is absolutely necessary

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3. Use the minimum necessary of personal confidential information
4. Access to personal confidential data should be on a strict need- to- know basis
5. Everyone with access to personal confidential data should be aware of their responsibilities
6. Comply with the law
7. The duty to share information can be as important as the duty to protect patient confidentiality

### **What if the adult refuses to give consent to share information?**

Frontline workers and volunteers should always share safeguarding concerns in line with their organisation's policy, usually with their line manager or safeguarding lead in the first instance, except in emergency situations. As long as it does not increase the risk to the individual, the member of staff should explain to them that it is their duty to share their concern with their manager. The safeguarding principle of proportionality should underpin decisions about sharing information without consent, and decisions should be on a case-by-case basis.

Individuals may not give their consent to the sharing of safeguarding information for a number of reasons. For example, they may be frightened of reprisals, they may fear losing control, they may not trust social services or other partners or they may fear that their relationship with the abuser will be damaged. Reassurance and appropriate support along with gentle persuasion may help to change their view on whether it is best to share information.

If a person refuses intervention to support them with a safeguarding concern, or requests that information about them is not shared with other safeguarding partners, their wishes should be respected. However, there are a number of circumstances where the practitioner can reasonably override such a decision, including:

- The person lacks the mental capacity to make that decision – this must be properly explored and recorded in line with the Mental Capacity Act 2005
- Other people are, or may be, at risk, including children
- Sharing the information could prevent a crime
- The alleged abuser has care and support needs and may also be at risk
- A serious crime has been committed
- Staff are implicated
- The person has the mental capacity to make that decision but they may be under duress or being coerced
- The risk is unreasonably high and meets the criteria for a multi-agency risk assessment conference referral
- A court order or other legal authority has requested the information.

If none of the above apply and the decision is not to share safeguarding information with other safeguarding partners, or not to intervene to safeguard the person:

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- Support the person to weigh up the risks and benefits of different options
- Ensure they are aware of the level of risk and possible outcomes
- Offer to arrange for them to have an advocate or peer supporter
- Offer support for them to build confidence and self-esteem if necessary
- Agree on and record the level of risk the person is taking
- Record the reasons for not intervening or sharing information
- Regularly review the situation

If it is necessary to share information outside the organisation:

- Explore the reasons for the person's objections – what are they worried about?
- Explain the concern and why you think it is important to share the information
- Tell the person who you would like to share the information with and why
- Explain the benefits, to them or others, of sharing information – could they access better help and support?
- Discuss the consequences of not sharing the information – could someone come to harm?
- Reassure them that the information will not be shared with anyone who does not need to know
- Reassure them that they are not alone and that support is available to them.

If the person cannot be persuaded to give their consent then, unless it is considered dangerous to do so, it should be explained to them that the information will be shared without consent. The reasons should be given and recorded. If it is not clear that information should be shared outside the organisation, a conversation can be had with safeguarding partners in the police or local authority without disclosing the identity of the person in the first instance. They can then advise on whether full disclosure is necessary without the consent of the person concerned. It is very important that the risk of sharing information is also considered. In some cases, such as domestic violence or hate crime, it is possible that sharing information could increase the risk to the individual. Safeguarding partners need to work jointly to provide advice, support and protection to the individual in order to minimise the possibility of worsening the relationship or triggering retribution from the abuser. (Reference: SCIE doc)

### **How much should be shared?**

Decisions about who needs to know and what needs to be known should be taken on a case by case basis, within agency policies and the constraints of the legal framework.

Principles of confidentiality designed to safeguard and promote the interests of an adult should not be confused with those designed to protect the management interests of an organisation. These have a legitimate role but must never be allowed to conflict with the welfare of an adult. If it appears to an employee or person in a similar role that such confidentiality rules may be operating against the interests of the adult then a duty arises to make full disclosure in the public interest.

In certain circumstances, it will be necessary to exchange or disclose personal information which will need to be in accordance with the law on confidentiality and the Data Protection Act 1998 where this applies.

### **Independent Advocates and information sharing.**

Where the adult has no appropriate person to support them and has substantial difficulty in being involved in the local authority processes, they must be informed of their right to an independent advocate.

### **False perceptions about needing evidence or consent to share safeguarding information**

Some frontline staff and managers can be over-cautious about sharing personal information, particularly if it is against the wishes of the individual concerned. They may also be mistaken about needing hard evidence or consent to share information. The risk of sharing information is often perceived as higher than it actually is. It is important that staff consider the risks of **not** sharing safeguarding information when making decisions. (SCIE: Info sharing Jan 2015)

### **What if a safeguarding partner is reluctant to share information?**

There are only a limited number of circumstances where it would be acceptable not to share information pertinent to safeguarding with relevant safeguarding partners. These would be where the person involved has the mental capacity to make the decision and does not want their information shared **and**:

- Nobody else is at risk
- No serious crime has been or may be committed
- The alleged abuser has no care and support needs
- No staff are implicated
- No coercion or duress is suspected
- The public interest served by disclosure does not outweigh the public interest served by protecting confidentiality

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- The risk is not high enough to warrant a multi-agency risk assessment conference referral
- No other legal authority has requested the information.

### Escalation

In the event of any differences of opinion regarding the sharing of information then professionals are encouraged to use the SSASPB escalation policy which can be found on the web pages [www.stopabuse.info](http://www.stopabuse.info). It has been produced to maximise the opportunity to resolve disagreements promptly and at the most appropriate level of supervision or management.

The final arbiter of disagreements is the SSASPB Independent Chair who may consider whether the concern warrants a request, under Clause 45 of the Care Act, for the 'supply of information'. If so, the reluctant party would only have grounds for refusal if it would be 'incompatible with their own duties or have an adverse effect on the exercise of their functions'. It is hoped that this will be a very rare occurrence and statutory partners are encouraged to contact their Designated Adult Safeguarding Managers (DASMs) who can provide support and guidance through the escalation process.

### References:

*Care Act 2014; Department of Health (DoH)*, Published 15<sup>th</sup> May 2014, Available at: <http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted/data.htm>

*Care and Support Statutory Guidance; Issued under the Care Act 2014*, Department of Health, Published 23rd October 2014, Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/366104/43380\\_23902777\\_Care\\_Act\\_Book.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366104/43380_23902777_Care_Act_Book.pdf)

### SCIE

*Serious Safeguarding Adults Reviews: Guidance note on options for London*, Sue Bestjan, Published April 2012, Available at: [http://www.scie.org.uk/adults/safeguarding/files/SCR\\_Options\\_London.pdf](http://www.scie.org.uk/adults/safeguarding/files/SCR_Options_London.pdf)

*Caldicott review: information governance in the health and care system*, Department of Health (DoH), Published 26<sup>th</sup> April 2013, Available at: <https://www.gov.uk/government/publications/the-information-governance-review>

Data Protection Act 1998, Department of Health (DoH), Published 16<sup>th</sup> July 1998, Available at: <http://www.legislation.gov.uk/ukpga/1998/29/contents/enacted>

## SSASPB Information Sharing Guidance for Practitioners (v1)

### Useful Contacts

SSASPB Manager; Helen Jones

Designated Adult Safeguarding Manager (DASM)	
Stoke-on-Trent City Council	Jackie Bloxham
Staffordshire County Council	Stephen Dale
Staffordshire Police	Daniel Ison
North Staffordshire and Stoke on Trent Clinical Commissioning Groups	Kim Gunn
South Staffordshire Clinical Commissioning Groups	Lisa Bates
University Hospital of North Midlands	Helen Inwood
Burton Hospital NHS Foundation Trust	Lisa Lamb
Staffordshire and Stoke on Trent NHS Partnership Trust	Shirley Heath
North Staffordshire Combined Healthcare Trust	Vicki Baxendale
South Staffordshire and Shropshire NHS Foundation Trust	Sharon Conlon

### Policy Checklist

1. Is this a new policy?	Yes
<b>Aims</b>	
2. Have the aims, objectives and intended outcomes been identified?	Yes
<b>Impact</b>	
3. Does the policy affect any of the following groups in terms of their protected characteristic? Please delete as appropriate: Gender (incl trans gender) Disability Age Sexual orientation Pregnancy and maternity	No No No No No
4. Please explain how the policy will ensure that the groups identified above have equal access to this policy	This document will be widely available via the SSASPB website once this is live (Autumn 2015) and in the meantime will be found on the <a href="http://www.stopabuse.info">www.stopabuse.info</a> pages.
5. Are there any other groups whom the policy may have a differential impact on? If so, please explain.	No
<b>Data &amp; Evidence</b>	

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6. What data/evidence has been collated to inform the development of the policy?	N/A
7. Does the policy respond to the needs that were identified from the data, evidence and consultation? If not, please briefly explain why.	N/A
<b>Consultation &amp; Involvement</b>	
8. Has consultation been carried out with partners?	Yes – SSASPB Partners
9. Were the consultation activities carried out inclusive and accessible?	Yes
10. Briefly outline the findings from the consultation and whether the policy needs to be adjusted/amended as a result of the consultation.	Please see minutes of Policies and Procedures and Executive sub-group meetings
<b>Monitoring</b>	
11. How will the policy be monitored and reviewed?	Annual review to be completed by Executive sub-group.
12. In what ways does the policy promote equal opportunities?	N/A – there are no equal opportunity implications within this document.
13. Has any inequality impact been identified? If so, what action has/will be taken to remedy?	No