DH Department of Health

When to share information

Best practice guidance for everyone working in the youth justice system





Youth Justice Board
Bwrdd Cyfiawnder Ieuenctid

Ministry of JUSTICE

department for
children, schools and families

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Contents





Foreword

Children in contact with the youth justice system are among the most vulnerable in society. Over 8,000 children under the age of 18 go through custodial establishments each year, with 3,000 held on remand or serving a sentence at any one time. Around 210,000 children and young people were dealt with by the youth justice system in 2005/06.

The Children Act 2004 recognises the importance of information sharing to improving outcomes for vulnerable children and young people. This guidance builds on the general guidance[1] in use by the whole of the children's workforce. It does so by providing a specific focus on young people moving through the youth justice system.

There is a particular opportunity to improve a child's health and well-being that presents itself when children are held in a secure establishment or are in contact with a youth offending team. Losing those gains when a child moves on from these settings is currently an all-too-real possibility. Inspection reports and case reviews have highlighted the link between poor practice in sharing information and poor outcomes for young people. Better information sharing is essential to enable continuity of treatment and provision for children and young people moving through the youth justice system, and to ensure that care pathways do not break down.

In the development of this guidance, there was a clear message from front-line staff that Government guidance had not been linked directly enough to everyday situations. This is why the authors have worked closely with staff in young offender institutions (YOIs), secure training centres (STCs) and secure children's homes (SCHs) and youth offending teams (YOTs) and have related the guidance to typical situations as young people move through the youth justice system. As a result, the document should be a valuable tool for use in daily work and in training and supervision sessions.

[1] DfES (2006a)

This guidance is one of the early products of the new joint programme approach between the Department of Health (DH), the Department for Children, Schools and Families (DCSF), the Youth Justice Board (YJB) and HM Prison Service (HMPS). The approach aims to improve the health and well-being of children and young people in contact with the youth justice system, with health considered to be an integral part of the resettlement process. The overriding purpose is to help these children and young people to reach their potential and achieve more positive outcomes.

We are grateful to the many colleagues who have helped pilot the practice examples and produce this guidance. This includes staff from across the entire youth justice pathway, all with a common purpose to produce guidance of practical use at the front line. We hope that all staff will find the guidance helpful in the valuable work they are doing with and for this vulnerable group of children and young people.

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Introduction and background

Aim of the guidance

This guidance is about information sharing in the youth justice system. It will also be useful for work with young people who are held in secure settings on welfare grounds. It has been written for care and custody staff,[2] other practitioners and first-line managers working with children and young people.[3] It takes a pathway approach, focusing primarily on moves to and from secure establishments.

The guidance builds on earlier documents. One is *Information sharing: Practitioners' guide,*[4] the key cross-government guidance for everyone working with children, young people and their families. The others are *Confidentiality: NHS Code of Practice*[5] and Prison Service Order 4950, *Care and Management of Young People.*[6]

The importance of information sharing

It is essential for meeting legal requirements

The new duty to improve the well-being of children and to safeguard and promote their welfare[7] requires information to be shared. It is essential to be fully informed about relevant aspects of young people's lives in order to make decisions about what is likely to be best for them. This information is not likely to be held by one agency alone. This is why improving information-sharing practice is a cornerstone of the Government's Every Child Matters strategy to improve outcomes for children.[8]

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[2] The term 'care and custody staff' refers to prison officers in YOIs, where the vast majority of children in the secure estate are held, and the residential care staff in STCs and SCHs.

[3] The terms 'children' and 'young people' are used interchangeably in this document: 'children' in recognition of the legal status of those under 18 (to whom this guidance relates) and 'young people' in recognition of the more usual way of referring to older adolescents.

[4] Department for Education and Skills (DfES) (2006a).

[5] DH (2003).

[6] HMPS (September 2007).

[7] Sections 10 and 11, Children Act 2004.

[8] DfES (2006c).

It is helpful to children and families

Young people and their families usually expect new workers to know about previous assessments undertaken, plans agreed and services offered or delivered. It can be both painful and irritating to have to retell their story whenever a new staff member or service comes into their life.

It can help to keep children safe

Reports into the deaths of young people in the secure estate highlight the importance of good information-sharing practice. A lack of communication has been a constant theme in reviews and investigations (see Annex 3).

It can reduce risks to others

Sharing information appropriately can help to reduce the risk of crime and harm to other children and other members of the public.

Why the need for more guidance?

Comprehensive guidance about information sharing is already available from a range of government and professional agencies (see Annex 3). This document applies that guidance to young people who have become involved in the youth justice system.

What is different about this new guidance for the youth justice system is that it aims to offer practical advice that takes account of the new ways of working that hard-pressed workers and managers are grappling with at present. It does this in three ways:

- **By using practice examples** – drawing on realistic situations to explore common questions and dilemmas.

- **By taking a multi-disciplinary view** – helping people to understand the different perspectives of colleagues and to reflect on what influences their own decisions and those of others.

- **By covering the pathway of young people's experiences** – spanning their experience both in community settings and in placements in the different establishments that make up the children's secure estate (YOIs, STCs and SCHs[9]).

The point of the practice examples

The practice examples work through different parts of the pathway:

1. Assessment in the community.
2. Admission from the community to a secure establishment.
3. Transfer within the secure estate.
4. Information sharing within a secure establishment.
5. Resettlement and aftercare in the community.

The examples are based on real-life situations but not on particular children and families. They are designed to illustrate issues about gaining consent. Some issues are relatively simple and straightforward, others less so. For instance, where consent is not given, or the situation is unclear, there is the need to balance – on the one hand – the duty of confidence to an individual with – on the other hand – the duty to promote children's well-being and the duty to disclose information if it is in the public interest to do so.

The aim of using the examples is to cover the main issues facing staff. These include communicating with young people with learning difficulties, taking account of parental responsibility, considering ethnicity and working within multi-agency requirements and protocols.

The primary focus of the document is the sharing of information between professionals. But other aspects of information sharing are also included. One is sharing information with children's families; another is advice to young people about what they tell others about themselves; a third issue is about the information that staff pass on, intentionally or otherwise, to young people in their care. All these issues are important – to ensure that families are kept informed and involved, that young people know how to deal with questions from their peers and that staff returning from holiday or sick leave are neither surprised nor embarrassed to be asked or told about their private life by young people.

[9] STCs and SCHs are used for children who are younger and are deemed more vulnerable than those held in YOIs. Some SCHs are used solely for children placed there on welfare grounds, for the protection of themselves or others (Section 25, Children Act 1989); others have a mix of welfare and custody placements.

How to use this document

Each practice example contains facts that will be the basis for judgements about information sharing. The aim is to illustrate and explore the different issues that workers in community and secure settings have to consider as they decide what information to share, and why, when and with whom.

The examples do not stand alone. You may need to dip into two or more to get the full sense of a particular issue. The index below indicates which example or examples are most useful for highlighting particular issues.

Index

The examples take you through the factors to consider when making a decision relevant to information sharing, but they do not give prescribed answers to fit every case. They cannot do so, because the answers depend on professional judgement, based on the facts of the particular case.

The examples have been designed for use in training events, team meetings and induction sessions, to help staff to develop their skills in sharing information. Through reflection and discussion, staff will become more familiar with the legal, policy and practice considerations that should underpin decisions about information sharing. They will also gain insight into the factors that influence their own judgements and decisions involved in their work to promote the welfare of children and young people.

The overall aim of the guidance is to achieve a more consistent approach to sharing information, and to encourage effective practice, so that important information is disclosed when necessary, to provide good care for young people, and so that personal information that does not need to be passed on remains private.

Balancing welfare, confidentiality and public interest

Information sharing raises questions, and sometimes confusion and conflicting views. A key issue is the need to balance the duty of confidence to the individual with disclosure in the public interest. And the welfare duties under the Children Act 2004 add a third factor – of sharing information in order to enhance the possibility of children and young people achieving good outcomes and having their welfare safeguarded. These duties apply to all children, vulnerable or otherwise, including those involved in the youth justice system in the community and those held in a secure setting.

The duty of confidence

In the health and other helping professions, the duty of confidence stems from the acknowledged importance of ensuring that people can seek help without fear that private information will become public.

Sharing with consent

Under certain conditions, information given in confidence may be disclosed (or shared or passed on). Most commonly, this happens because the person who gave the information consents to it being passed on, understands what is to be passed on, to whom, and for what purpose.

Sharing without consent

Where consent to share is not given, or cannot be obtained, information may still be disclosed and in some circumstances it **should** be disclosed. There is no specific legislation setting out the circumstances that justify disclosing confidential information without consent. However, some people have complained to the courts about breaches of confidentiality and this has led to the courts setting out some basic principles based on these individual cases. These principles have informed the guidance issued through professional codes of practice, which specify, for instance, that disclosure can be justified in the public interest[10] or to help deal with serious crime.[11]

Codes of practice also specify that the starting point is for professionals to be clear about the reason for wanting to disclose information without consent. They also need to think about the implications of not disclosing information, including the possibility of the child being at risk of harm or of causing harm to others. In addition, they need to bear in mind the links between the duty of confidentiality and other legislation. For example, the Human Rights Act (see Annex 2) takes a broad perspective, placing a strong emphasis on the ability to override the right to privacy in the interests of the welfare of the child, and there are the new duties in the Children Act 2004 (as explained throughout this guidance).

Staff in the youth justice system are working with a particularly vulnerable group of children. Most of the children and young people will have experienced significant impairment to their health and development (this counts as 'significant harm'). All of them will count as 'children in need', meaning that they are likely to experience impairment of health and development without the provision of a

[10] '… in the public interest (usually where disclosure is essential to protect the patient or client or someone else from the risk of significant harm).' Nursing and Midwifery Council (2004).

[11] '… where a disclosure may assist in the prevention, detection or prosecution of a serious crime, especially crimes against the person, such as abuse of children.' General Medical Council (2004).

service to address their needs.[12] There is the particular risk of harm associated with being held in a secure setting, including the potential harm from other young people.

The examples in this guidance highlight the balancing process involved in deciding whether or not to disclose information. They show that thought should be given to the reasons for disclosure, the extent of the information that should be shared, who it should be shared with and for what purpose. Vulnerable young people are entitled to the same approach to confidentiality as there is in work with young people in general, with proper attention given to the risks associated with failure to pass on information.

Staff in the secure estate (such as a safeguarding manager, an ACCT[13] assessor or a YOT worker) may not necessarily need detailed information relating to specific aspects of a young person's substance misuse or mental health problem, but they will need to have a broad understanding of the concerns – and of any work or treatment that is in place – if the staff group as a whole is to have the best chance of doing their best for individual young people. It is for this reason that the Government is promoting wider, holistic information sharing that can inform sentence planning, support and supervision and resettlement needs in a purposeful manner.

The examples explore questions from the flowchart (see page 10) that is set out in *Information sharing: Practitioners' guide.*[14] The recurring themes are as follows:

- Is there a legitimate purpose for sharing information?
- Is the information confidential (and if so, why and to whom)?
- Is there consent to share the information?
- Is there sufficient public interest to share (even without consent)?

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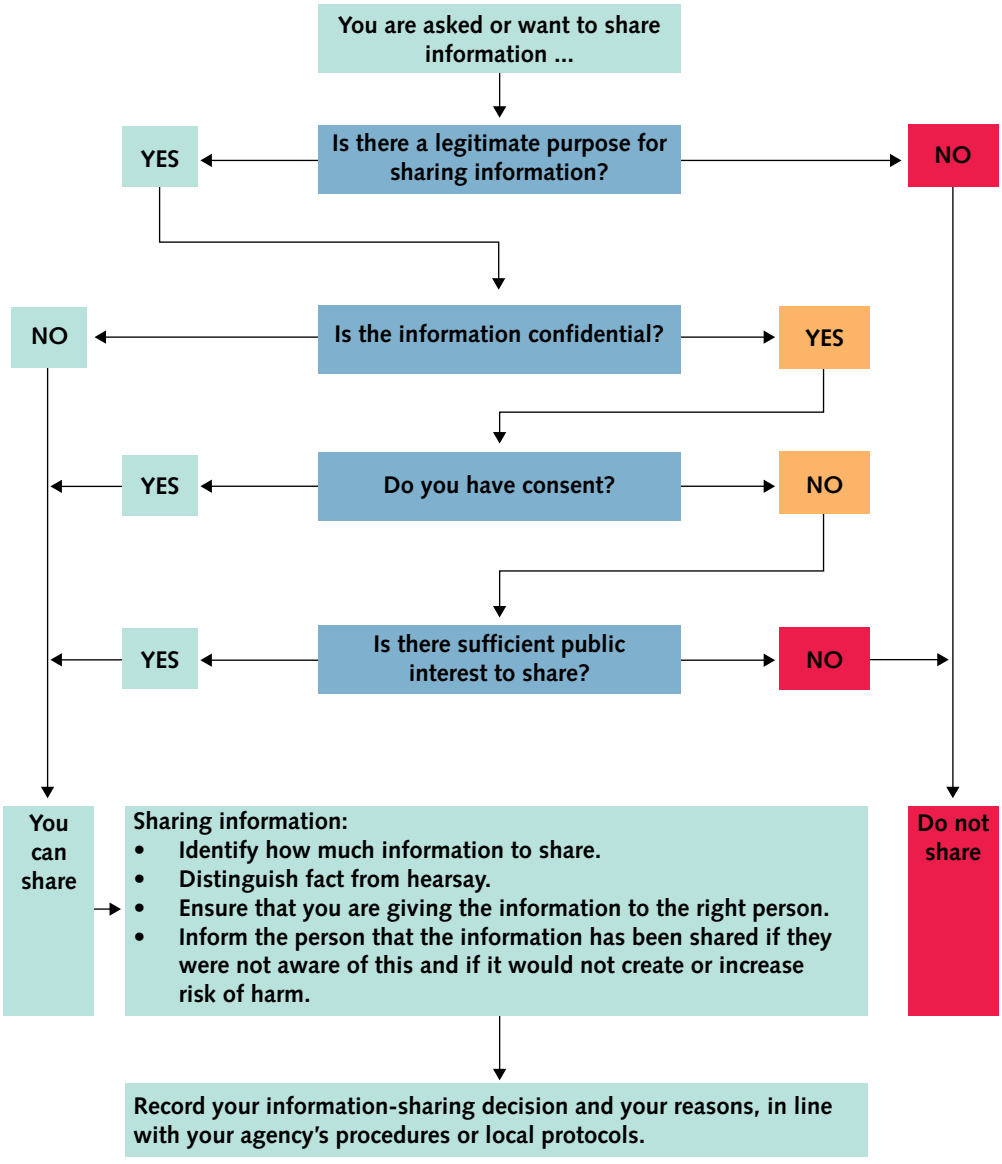
[12] Sections 17 and 31, Children Act 1989.

[13] Assessment, care in custody and treatment (ACCT) is a new care-planning system for prisoners at risk of harming themselves that is being rolled out across the prison estate.

[14] DfES (2006a).

Flowchart of key questions

Adapted from *Information sharing: Practitioners' guide.*



Key principles underpinning information sharing

The starting point for this guidance is the Government's Every Child Matters: Change for Children programme, introduced under the Children Act 2004. The programme requires the children and young people's workforce to collaborate in order to improve outcomes for all children. This includes those in contact with the youth justice system and those held in secure settings for welfare reasons.

The Every Child Matters guidance on information sharing sets out six key principles that should underpin children and family work across all health and social care agencies. The principles are endorsed by all relevant government departments[15] and professional bodies.[16] They are set out in the box below.

- You should **explain** to children, young people and families at the outset, openly and honestly, what, how and why information will, or could be, shared, and seek their agreement. The exception to this is where to do so would put that child/young person or others at increased risk of significant harm or an adult at risk of serious harm, or if it would undermine the prevention, detection or prosecution of a serious crime (see Glossary for definition), including where seeking consent might lead to interference with any potential investigation.

- You must always **consider the safety and welfare** of a child or young person when making decisions on whether to share information about them. Where there is concern that the child may be suffering or is at risk of suffering significant harm, the child's safety and welfare must be the overriding consideration.

- You should, where possible, **respect the wishes** of children, young people or families who do not consent to share confidential information. You may still share information if, in your judgement on the facts of the case, there is sufficient need to override that lack of consent.

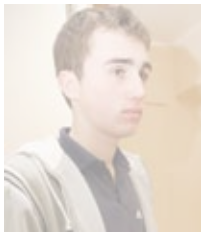
[15] DfES (2006a).

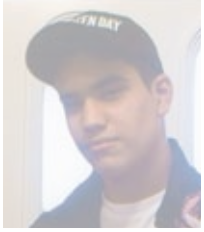
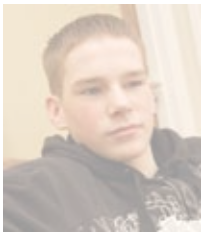
[16] Including the Association of Directors of Children's Services (Families, Community and Young People Policy Committee), the Association of Chief Police Officers, the General Medical Council, the Information Commissioner, the Nursing and Midwifery Council, the Royal College of General Practitioners and the Royal College of Paediatrics and Child Health.

- You should **seek advice** where you are in doubt, especially where your doubt relates to a concern about possible significant harm to a child or serious harm to others.
- You should **ensure that the information you share is accurate and up-to-date**, necessary for the purpose for which you are sharing it, shared only with those people who need to see it and shared securely.
- You should always **record the reasons** for your decision – whether it is to share information or not.

A final key principle relates to the responsibility of professionals to ensure fair treatment for children, young people and families. While the law about information sharing and confidentiality applies equally to all children and families, irrespective of their ethnic and cultural background and other circumstances, the judgements made by professionals must be informed by an awareness of the unique situations of individual families and individual family members. Considerations of ethnicity, religion and language (as well as other equality issues) are as relevant for information sharing as they are for other aspects of practice.

Practice example

Example 1: Assessment in the community

Sharon – age 15 – Black British

Sharon has assaulted a teacher and a police officer and, having already received a range of community sentences, is facing custody.

Sharon has learning and communication difficulties that have contributed to a long history of behaviour problems. She has a statement of special educational needs. She has been accommodated four times during her childhood, with the most recent episode starting last year. She has absconded from placements in both foster care and children's homes. Sharon and her parents are Seventh Day Adventists.

Two years ago Sharon's parents agreed to children's services making a referral to the local child and adolescent mental health service (CAMHS), to assess their capacity to manage a teenager with possible conduct disorder. The family did not complete the assessment. They felt blamed for Sharon's difficulties and did not understand the point of the assessment. The adolescent psychiatrist wrote a letter to Sharon's social worker, explaining that she had not been able to complete the assessment but felt that Sharon was a very vulnerable young person. The letter also stated that the father was so domineering that she had concerns for the mental health of both wife and daughter, and that she was not optimistic that the parents had the capacity to change sufficiently to provide a safe environment for Sharon. The psychiatrist had told the parents about her emerging opinion, but they were not sent a copy of the letter.

A recent assessment by the looked after children (LAC) nurse revealed that Sharon had chlamydia and that her parents and social worker did not know about Sharon's sexual activity. Sharon had told the nurse that her sex life 'has to be secret' and 'is private'. The child protection implications of this disclosure were addressed immediately, via the local multi-agency protocol.

Continued overleaf

Sharon's father has been chronically sick for a number of years and is unable to work. He has been involved in petty crime in the past and served a short prison sentence 17 years ago for receiving stolen goods. Sharon's mother has moderate learning disabilities, has limited ability to read and write, and leans heavily on her husband for support. She talks openly about her years in a special school. Sharon's parents are involved with and committed to Sharon but feel helpless about her future. Sharon is missing, but the police think they know where she is and believe that she will be picked up soon.

The youth offending team (YOT) worker is visiting the parents. She wants to discuss the pre-sentence report and the Asset form[17] in anticipation of Sharon's arrest and probable remand to custody. The parents give their consent to sharing the health and education information presented to the last LAC review. But they do not want the CAMHS assessment to be shared. Sharon's father does not think the psychiatric opinion is based on a good understanding of the family. The parents cannot put their hands on the written information about information sharing that they had received earlier from the YOT worker.

The next section works through the blue questions in the Every Child Matters flowchart (see page 10). As it does so, it explores some key practice issues:

- capacity to give informed consent;
- parental responsibility;
- to whom information remains confidential; and
- change in purpose for which information is shared;

1. Is there a legitimate purpose for sharing information?

Yes. There are clear, legitimate purposes for sharing information in Sharon's case:

- in children's legislation, to safeguard and promote her welfare,[18] and because she is looked after and at risk of significant harm;[19]

[17] The Asset form is a standardised 12-page assessment tool designed to help identify factors associated with offending and to inform pre-sentence reports and sentence planning.

[18] Sections 10 and 11, Children Act 2004.

[19] Sections 22 (child looked after) and 31 (significant harm), Children Act 1989.

- in criminal justice legislation, to prevent offending;[20] and

- to enable the YOT to complete the structured needs assessment required by the National Standards of the Youth Justice Board (YJB).[21]

For more information, see *Information Sharing: Further Guidance on Legal Issues.*[22]

There will almost always be a legitimate purpose for statutory workers to share information. But it is a good idea to be clear what that legitimate purpose is. The fact that there **is** a legitimate purpose does not mean that you may go ahead and share information without first balancing the other legal obligations that are relevant. You have the power to share, by virtue of your statutory role. The next step is to think how best to use discretion and judgement in the exercise of this power. An important thing to consider is the likelihood of harm occurring as a result of disclosing information in a particular case, weighed against the likelihood of harm occurring if that information is **not** disclosed.

2. Is the information confidential?

Confidential information is sensitive material that is not in the public domain. Most often, such information is given in the context of a formal confidential relationship, such as that of patient to nurse or client to social worker.

Some of the information in this case has already been obtained in a confidential context, for example Sharon's discussion with the LAC nurse about sex.

Some information is not confidential. For example, the mother speaks openly of her education in a school for children with learning disabilities.

Other information is not so clear-cut. There is a qualification on the confidentiality of the psychiatric assessment of the family, because Sharon's parents attended CAMHS sessions having been told that the purpose was to assess the family to help children's services make plans for Sharon. If it is now proposed to use the information gained through that assessment for a different purpose, the parents have to be asked for their consent for it to be shared.

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[20] Sections 17, 37, 38, 39 and 115, Crime and Disorder Act 1998.

[21] YJB/Home Office (2004) National Standards 4 and 7; YJB (2002) *Assessment, Planning Interventions and Supervision: Key Elements of Effective Practice.*

[22] DfES (2006b).

Another piece of information that could be seen as confidential is the father's criminal record. He told the social worker about this within a client relationship. It was also reported in newspapers at the time, so it could be argued that the criminal record is not confidential. Good practice would be to check the father's current view about whether or not the information should be passed on. Before doing so, the YOT worker should consider what, if anything, will be gained (or lost) by passing on such information at this time.

It is important that discussion about specific questions of disclosure is firmly based on agency policy. In this case, it is the YOT policy, which the family was given information about when the YOT first became involved with Sharon. This policy will make clear what level of confidentiality can be offered and the circumstances in which disclosure might be necessary. The fact that Sharon's parents could not find the written policy is a reminder that giving written information is only one aspect of good practice. The workers will have had to consider how much of the written information is useful to Sharon's mother, given her poor literacy skills. The written policy is only a starting point. It should be followed up by a discussion of what the policy means in practice for Sharon and her parents.

3. Do you have consent to share information?

Gaining consent from families is always the first option, unless trying to do so would put someone at risk of serious harm. Such situations are the exception. Asking for consent to share information shows respect. It can also help empower young people (and their relatives), who may be feeling powerless in a hostile world.

The example contains separate information about Sharon and her parents.

Consent from young people

In relation to Sharon, one question to be addressed is: does she have sufficient understanding and intelligence to fully grasp what is proposed? This is often referred to as having 'capacity'. In the vast majority of cases, young people aged 15 are seen to have capacity to give informed consent. Although Sharon has learning difficulties, her use of phrases like 'has to be secret' and 'is private' suggests that she understands the concept of confidentiality.

When the YOT worker catches up with Sharon, the following criteria about capacity should be considered:[23]

- 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 that information?
  – the implications of sharing, and of not sharing, that information?

- Can the child or young person:
  – understand 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 opposed to repeating what someone else thinks they should do?
  – be reasonably consistent in their view on the matter, rather than constantly changing their mind?

These criteria show that assessing capacity to give informed consent is not just a question of a young person's age or intelligence. There are specific questions to consider, and the young person's ability to answer them depends on their level of understanding and their emotional development.

Consent from parents

A question here is: where does parental responsibility come into play?

- If it had been decided that Sharon did not have sufficient understanding to give consent, it would be necessary to determine who has parental responsibility for her.

- Sharon's parents are married, so each has parental responsibility. The consent of one parent is enough.

- Where parents are separated, it is usual to seek consent from the parent with whom the child is living.

[23] DfES (2006a), page 16.

- An unmarried mother has parental responsibility. An unmarried father does not automatically do so, unless he has a legal document to say he does.

- If a Care Order is in force, the children's services authority will share parental responsibility with parent/s, and workers should liaise with them about questions of consent.

4. Is there sufficient public interest to share information (even without consent)?

It is good practice to talk to young people and their families and gain their consent to share information. But sometimes the balance swings in favour of disclosing information in the public interest. This might arise whether or not consent has been asked for or gained.

The public interest test is discussed on page 8 and defined in the glossary (Annex 1). In applying it to Sharon's case, there are two areas where consent has not been given: first is the information of a sexual nature that Sharon disclosed to the nurse; and second is the information that the family shared with the CAMHS psychiatrist.

The nurse's dilemma
The nurse decides that it is necessary to share the information that Sharon has had sexual partners but not the information about her sexually-transmitted infection. This is because she decides that:

- the information about the sexual partners amounts to Sharon being at risk of significant harm; but

- the information about chlamydia does not add to the picture of vulnerability already apparent from what has been disclosed about her sexual behaviour.

The sharing of confidential information is proportionate. This means that it is sufficient to ensure that the question of significant harm can be addressed properly. The nurse has to weigh up the balance between – on the one hand – safeguarding the child and – on the other hand – respecting as far as possible her wish for confidentiality. Her thinking and judgement are influenced by various factors. One of these is the possible impact on Sharon and her parents of disclosures of a sexual nature that indicate behaviour that is contrary to the parents' religious belief.

The psychiatrist's dilemma

The psychiatrist has been asked by the YOT worker to share any information she has which might help in preparing Sharon's pre-sentence report and Asset form. The psychiatrist knows that Sharon's father does not want her to pass on any more information at this point. The key information and the psychiatric opinion were in the letter sent to children's services when the assessment ended prematurely. The psychiatrist's clinical notes included more detail – about the father's account of the shortcomings of his wife and daughter and of his own traumatic childhood. The psychiatrist is aware that her comments are two years old and have partly been overtaken by events. There is no realistic chance of Sharon returning home in the foreseeable future. The psychiatrist knows that Sharon has had no subsequent contact with CAMHS and that there is no current therapeutic relationship with the family that might be jeopardised by disclosure of information against their wishes.

On balance, the psychiatrist decides that the YOT should have access to her letter. Why? Because the reason for disclosing information is no longer linked to an assessment of the family's capacity to meet Sharon's needs. The information is now needed to inform the court and to help plan for Sharon's future placement and care. The primary consideration for the psychiatrist is that she has information indicating the extent of the young person's vulnerability and risk of significant harm. This is the reason for overriding the father's refusal to give consent.

However, the psychiatrist does not decide to disclose everything she knows. She does not think there is an overriding interest in disclosure beyond her initial letter, as the further information she holds would not enable better public protection. Nor would it contribute to decisions about the risk of significant harm to a child. She rings Sharon's father to tell him what she has decided to do, and why. She makes a note of this phone call in her clinical record, including what she plans to share and not share, and the reasons for those different decisions.

Staff in children's services had considered whether they could give consent for the disclosure of the psychiatrist's letter. They did this because they had commissioned the assessment from the psychiatrist. They decided – rightly – that, as they held the information as a third party, they should refer the request for disclosure to the owner of the information.

Must-dos

- 'Practitioners must inform young people about the limits of confidentiality that apply in the youth justice context.'

  (YJB, 2003, Key Elements of Effective Practice (KEEP) manual on *Mental Health*, page 7.)

- 'A full assessment must be made of each young person admitted to custody within 10 working days of admission. The assessment should cover the health, social, educational, vocational and any other needs of the young person.'

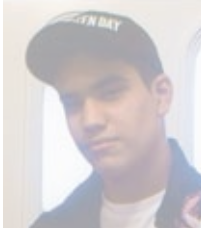
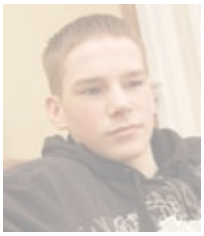
  (YJB/Home Office, 2004, National Standard 10.10.)

Effective practice points

- Consider how the cultural and religious background of a young person and their family might influence decisions about confidentiality and disclosure.
- At the start of any work, give people written information about the procedures and protocols that you and they have to follow. Information should be written clearly, using simple, everyday words.
- Written information alone is not enough. Just as important, especially for young people and adults with limited literacy skills, is your clear explanation about what the written information means.
- Each professional involved should take time to explain what information is to be passed on, and why, and to whom.
- Make a written note of what information you have decided to pass to others, or not, and the reasons for your decisions.

Practice example



Example 2: Admission from the community to a secure establishment

Harry – age 14 – White British

Harry has been convicted of burglary and has received a custodial sentence. He is placed in a secure children's home (SCH), where an assessment of vulnerability is underway. This is Harry's first time in a secure setting. When he was nine, he had a road accident that left him deaf in one ear. He has mild learning difficulties and a statement of special educational needs (SEN), primarily for behavioural problems. At 13 he started as a weekly boarder at a special school, but he returned home recently and has been waiting for appropriate educational provision.

Communicating with Harry is difficult. He can be talkative but rarely responds to direct questions. After 15 minutes it is almost impossible to continue a discussion. He has attention deficit hyperactivity disorder (ADHD). He has been prescribed Ritalin but takes it only erratically. Because of missing appointments, he has been discharged from the local paediatric clinic that was overseeing his medication. Harry's mother recently persuaded the GP to liaise with the paediatrician about continuing the prescription. Harry knows that he saw someone else about his ADHD, but neither he nor his mother is sure who this was.

Harry has also been assessed for possible autistic spectrum disorder (ASD). No diagnosis was made, but the SEN statement comments that 'he has some characteristics of the disorder'. He tends to be described as 'odd' and 'difficult to read' and people around him, professionals as well as peers, often feel uncomfortable in his presence.

When Harry was admitted to the SCH, he told the nurse that he is scared of being bullied. He does not want anyone to know this because he thinks it will be seen as a sign of weakness and lead to even more bullying.

Harry's learning difficulties have been discussed at the SCH multi-agency planning meeting attended by the community YOT worker. Harry's mother was not able to get to this meeting. In the past she was keen for the educational psychologist's report (about his problems in communicating with and understanding people) to be made available to everyone working with her son. This consent to disclosure was made primarily for educational purposes.

Continued overleaf

The SCH has received Harry's pre-sentence report and Asset form from the community YOT worker. They are chasing up information to fill the gaps, so they can fully assess his vulnerability. The mental health nurse is particularly concerned about the uncertainty over ADHD and possible ASD. She knows these will have implications for his medical care, education, behaviour and general well-being.

This example explores the following key practice issues:

- communicating with young people, including those with learning and communication difficulties;
- the value of information on the Asset form;
- changes in the purpose for which information is shared; and
- informed consent.

1. Is there a legitimate purpose for sharing information?

Yes. There are clear, legitimate purposes for sharing information in Harry's case:

- in children's legislation, to safeguard and promote his welfare,[24] and because he is a child in need;[25]
- in criminal justice legislation, to prevent offending;[26] and
- to enable the SCH to complete the assessment of Harry's vulnerability and to carry out the planning required by the YJB National Standards.[27]

[24] Sections 10 and 11, Children Act 2004.

[25] Section 17, Children Act 1989.

[26] Sections 17, 37, 38, 39 and 115, Crime and Disorder Act 1998.

[27] YJB/Home Office (2004) National Standard 10; YJB (2002) *Assessment, Planning Interventions and Supervision: Key Elements of Effective Practice*.

2. Is the information confidential?

Harry's medical history is confidential because it was collected during formal patient/clinician meetings. The assessment information in Harry's SEN statement was shared, with consent, at the multi-agency meeting in the SCH, attended by the YOT worker. At that meeting Harry and his mother had signed a consent form, agreeing to the information being shared in order to secure services to promote Harry's well-being. Unless the information is to be shared for this purpose, it remains confidential.

3. Do you have consent to share information?

The question of consent may be more complicated when working with young people with learning and communication difficulties.

Before the start of Harry's assessment in the SCH, the care worker has the benefit of reading the Asset form which will, ideally, give her crucial information to use when she interviews Harry.

Harry's social and communication skills
In section 10 of the Asset form, Thinking and Behaviour, the box 'Inappropriate social and communication skills' has been ticked. In the evidence box under that heading there is a note from the YOT worker about Harry's low level of understanding, his communication difficulties and his poor concentration. There is also a quotation from the conclusion of Harry's SEN assessment about how best to talk to Harry. This is very helpful to staff, as it warns them about the need to avoid certain types of communication because they are likely to trigger an angry and bewildered response, which could upset Harry and threaten the maintenance of order.

Harry's physical health
Section 7 of the Asset form, Physical Health, highlights Harry's partial deafness. From their first meeting with Harry the staff should know that he will not hear them well if they approach him from his left side, and that if they raise their voice and approach him from the right he may feel he is being shouted at and get upset or angry.

This is a good example of an Asset form conforming to the YJB Standard, which requires the assessment to be informed by previous assessments, including any statement of educational needs. Any assessments conducted under the

Common Assessment Framework or the Integrated Children's System (ICS)[28] will invariably contain information that will have informed, or will add to, that on the Asset form.

Giving consent

Harry's mother had given consent to sharing the educational psychology assessment with all the professionals involved in her son's care, because she believed the report helped people understand her son better. It could be implied that her consent has been given to share the assessment with all the staff in the SCH also. However, since there is a change in the way the information will be used, now that Harry is in a secure setting, it is good practice to check that she is giving her consent to that wider information sharing. As Harry is 14, it is also good practice to double-check his view about sharing the information in this report to help develop his understanding and ability to participate in making decisions about his future.

As Harry is highly distractible, and tends to agree quickly with whatever is suggested to him, the YOT worker and others are not satisfied that he is able to give informed consent. At 14, most young people have sufficient understanding to give informed consent. But chronological age (like IQ level) is a guide only. Decisions should be based on the ability of the individual young person to understand the implications of the decision in hand. Harry's views change from one meeting to the next, and he seems to agree to a proposal because he thinks this will bring a discussion to an end.

The YOT worker decides to check out Harry's views from time to time and to keep in touch with his mother about both her views and her understanding of her son's current thinking. A decision is made to ask the psychologist in the healthcare team to join in with the assessment on Harry and, when full background information has been collected, to give her opinion of his capacity to give consent.

Harry's mental health

The SCH nurse writes to Harry's GP, asking for information about the assessment and treatment of Harry's ADHD. She asks, too, for information about any other contact with, or referral to, child and adolescent mental health services. She encloses with this letter a statement from Harry's mother giving written consent for the GP to disclose the information held. If the mother had not given her

[28] ICS is the recording system used by social workers when completing initial and core assessments.

consent, the nurse would have made the case to the GP that disclosure of the information was necessary in light of reasonable cause to believe that Harry might be suffering significant harm. It is clear from the Asset form that there are indications of psychological difficulties, though there are no reports of self-harm or attempted suicide. The unease of healthcare and other staff about Harry's emotional well-being is such that the nurse decides to follow up her letter with a phone call to the GP.

The GP considers whether he needs written consent from Harry, too. He decides this is not necessary because – in his opinion – Harry does not have sufficient understanding to give informed consent.

Harry's education

The head of education at the SCH writes to Harry's home education authority requesting the SEN assessment, including reports from educational psychology and speech and language therapy about his possible autism. These reports should help inform the strategies for managing Harry's behaviour, as well as informing his individual learning plan. The reports should be comprehensive, albeit a year old, as they were carried out as part of the full assessment on Harry while he was at the special school.

4. Is there sufficient public interest to share information (even without consent)?

Harry's mother is committed to doing the best for her son, and she has a good relationship with the home YOT worker. The time taken by professionals to explain to Harry and his mother the reasons for sharing information has been helpful. It has enabled the workers to pass on most information that they consider necessary.

The one issue where the question of overriding confidentiality arises relates to Harry's fear of being bullied. It is clear from the Asset form that Harry has a history of being bullied. Staff are conscious that they will need to be especially vigilant, because they fear that his demeanour is likely to attract unkind comments from other young people. The policies and practices of the SCH are directed at preventing harm from other children, including bullying.

Harry's own fears about being bullied form part of the overall picture of his vulnerability. His views about what action should, or should not, be taken are important: often no-one will know better than the young person themselves whether they have good reason to be scared. But hearing views does not

necessarily mean following up on them. Staff need the information about his fears in order to work out how best to protect him from risk of significant harm.

The nurse explains to Harry that she is going to share this information so that the staff looking after him can watch out for any signs of bullying. She explains that the SCH has a zero tolerance anti-bullying policy and she explains what this means. She helps Harry think about ways of minimising risk, and checks that he knows who to talk to if he is worried at any time. The information about his fears is shared with the front-line staff responsible for caring for Harry. They discuss ways of ensuring that the information is passed on only to those who need to know about Harry's anxiety.

Must-dos

- 'YOTs and secure facilities must ensure the exchange of information relating to young people in custody within prescribed timescales, and [must ensure] that work begun in custody is carried on following release.'

  (YJB/Home Office, 2004, National Standards, page 4.)

- The Asset must be informed by '… existing reports including any previous Asset or other assessment, Pre-Sentence Reports, list of previous convictions, statement of educational needs, and any other information relevant to the offending, and their contact with police, health and social services'.

  (YJB/Home Office, 2004, National Standard 4.4.)

- 'All secure settings should have safeguards in place to ensure that bullying is effectively countered.'

  (DfES, 2006c, *Working Together to Safeguard Children*, para. 11.5.)

- 'Local education authorities should ensure that institutions receive information about young people's special educational needs, including a copy of any statement and the last annual review report.'

  (DfES, 2001, *Special Educational Needs Code of Practice*, para. 8.104.)

Effective practice points

- A properly completed and up-to-date Asset form is the key to effective information sharing. Set out the evidence, rather than just ticking boxes. This will mean that those planning a young person's care will have the necessary information to do that well.

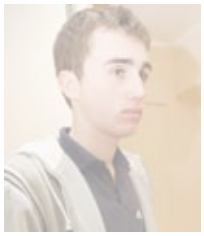
- Gaining consent is more likely to be possible if family members have confidence in the people who are working with their children and themselves.

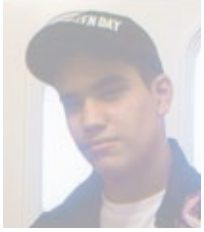
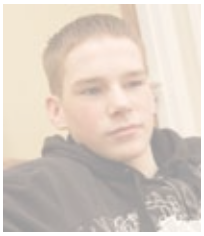
- Tailor your method of communicating with children to the level and nature of the young person's understanding, and take account of any sensory impairment, learning difficulty and preferred language.

- Families are usually the best source of information about their children. Building good working relationships with family members requires skill and empathy. Parents may feel that they have failed their child. They may blame themselves, but try to hide their feelings. This may get in the way of sharing information about their troubled child.

- Young people may be the best source of knowledge about who holds useful and correct information about them. When planning their education, ask for their view about who to consult about their previous school work.

Practice example

Example 3: Transfer within the secure estate

Ashley – age 16 – White British

Ashley was sentenced to a 12-month Detention and Training Order (DTO) for persistent offending, largely theft and burglary to buy drugs for himself and his friends. He is placed in a young offender institution (YOI). He always carried a knife, he says to defend himself, but he threatened a shopkeeper with the knife during his most recent offence.

Ashley has a long history of depression, overdosing and self-harm. There are conflicting staff views about his suicide risk, with some staff believing that he self-harms to get transferred from his wing to the healthcare unit. Because of the current level of risk there is an Assessment, Care in Custody and Teamwork (ACCT) plan for him.

Ashley's father committed suicide shortly after discharge from psychiatric hospital, when Ashley was five. His mother suffers from depression and anxiety and has been too ill to visit or participate in planning for Ashley. Ashley's mother has always agreed to share information about the family, apart from the circumstances of the death of Ashley's father and Ashley's sexual abuse as a child. Ashley does not participate meaningfully in discussions about consent.

In the past, Ashley had intermittent contact with CAMHS, due to self-harm and overdoses, which were seen as cries for help. He has had one-to-one sessions with healthcare staff following his suicide attempt in the YOI. He becomes very withdrawn if the healthcare staff try to address his interest in knives or his feelings of depression. His mood appears to be affected by what may seem to others to be relatively small events, such as a missed phone call, a delay in his sentence planning meeting, or an argument with another young person. Not all of these incidents were recorded at the time by custody staff.

When he was at primary school, Ashley was on the child protection register because of sexual abuse and neglect. The details of the sexual abuse are confidential – he was abused by a paternal uncle who also committed sexual offences against other children. The uncle is now in prison and his trial attracted national publicity. Ashley speaks to the chaplain frequently and has told her about his worry that people might start talking about the link between him and his uncle.

There is a plan to move Ashley closer to home, to a secure training centre. The Asset form is being updated for the receiving unit.

The example explores the following key practice issues:

- failure to record and pass on information;
- linking safeguarding procedures with those for suicide and self-harm; and
- confidential information about a young person's family.

1. Is there a legitimate purpose for sharing information?

Yes. There are clear, legitimate purposes for sharing information in Ashley's case:

- in children's legislation, to safeguard and promote his welfare,[29] and as a child in need;[30]
- in criminal justice legislation, to prevent offending;[31] and
- to enable the YOI and the YOT to update the Asset form and to plan effectively for Ashley.[32]

2. Is the information confidential?

HM Prison Service (HMPS) documentation[33] states: 'We will, where possible, respect the wishes of the young person where they do not consent to share information about them'. That statement, like this guidance, is based on the six Every Child Matters key principles set out on page 11. It means that there is a basis of confidentiality in the relationship between young people and staff. But the specific grounds to allow or require disclosure of confidential information also apply, and may need to be invoked, in secure as well as other settings.

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[29] Sections 10 and 11, Children Act 2004.

[30] Section 17, Children Act 1989.

[31] Sections 17, 37, 38, 39 and 115, Crime and Disorder Act 1998.

[32] YJB/Home Office (2004) National Standards 4 and 10; YJB (2002–03) KEEP manuals on *Assessment, Planning Interventions and Supervision* and *Mental Health*; HMPS (September 2007) Prison Service Order 4950 (paras 5.20–5.35).

[33] HMPS (September 2007) Prison Service Order 4950 (Annex D – Information Sharing Policy Statement).

Information in the public domain

The uncle's case is notorious and in the public domain, but his relationship to Ashley is not widely known. Ashley's case file, including the Asset form, is stored in the central administrative office of the YOI. A leak of such sensitive information would increase the risk of harm to Ashley because he could be taunted for being complicit in perverse sexual behaviour or for being like his uncle. Front-line staff will have been told that Ashley has been abused in the past, but they will not know the details of that abuse. Staff responsible for monitoring incoming post will need to know the identity of Ashley's abuser. Knowing about previous abuse is also important, generally, when staff are carrying out body searches.

At times when the uncle's case might return to public prominence, for example on appeal, the safeguarding officer will – in general terms only – remind those looking after Ashley of a link between him and the case in the news. While recognising the importance of keeping past incidents of child abuse confidential, the safeguarding officer and others will want to alert staff to sudden behaviour change that might otherwise appear disproportionate, irrational or extreme.

Understanding a young person's background can help staff manage behaviour more sensitively and reduce stressful situations for young people and staff alike.

Information about young people

It can be very difficult in a closed institution to stop young people finding out private information about one another. Staff should tell young people not to ask about other young people's offences and home life, and not to talk about their own circumstances either. Young people should be helped to think about their cover story, in case they are asked why they are in the secure unit. They should also be encouraged to keep to general comments, rather than giving out personal details that could be used against them.

Information about parents

There is also confidential information about Ashley's parents – confidential because it is sensitive personal information and not in the public domain. The details of the mental illness of both parents are known to healthcare staff. They will draw on this knowledge when doing Ashley's risk assessment and when considering how best to engage Ashley in therapeutic work. Ashley's personal officer should have access to the full family history, through the Asset form. Other wing staff should know that there is a history of serious mental illness in Ashley's family, but they do not

need to know the details. Particular circumstances may arise which prompt the need for them to know more of the detail, for example if private information is suddenly leaked.

3. Do you have consent to share information?

Ashley does not participate in discussions about consent. He will not give a direct response and generally withdraws into silence. Ashley's mother is not involved in his life at the moment. The YOT worker is clear that – on the one hand – there is no real informed consent but – on the other hand – Ashley has the necessary understanding to withhold consent but is not actually doing so. The YOT worker has discussed this with his line manager and made a note on file of the unsatisfactory situation. The line manager advises that Ashley should be told whenever information is about to be shared, thus giving him continued opportunities to develop and express his views. The YOT worker makes sure to tell Ashley exactly what he is recording in the updated assessment. He asks Ashley for his comments and he tries to incorporate these into the Asset form. He also decides that it is a good moment to use the section in the form headed 'What Do You Think?'.

4. Is there sufficient public interest to share information (even without consent)?

Staff at the receiving unit need to know about the factors that increase the risk of serious harm to a particular young person. In Ashley's case, his childhood abuse and the family history of mental illness and suicide both heighten his vulnerability to self-harm and/or suicide.

Staff have not recorded, and so cannot pass on, some apparently minor events during Ashley's time in the YOI. With hindsight, these may have accounted for some of his mood swings. In view of his vulnerability, staff have now started to log (in the ACCT plan) events of apparently low significance, as well as the more obvious ones. Healthcare staff have undertaken an assessment to inform the ACCT plan and to update the Asset form prior to Ashley's proposed transfer. This information is available to the safeguarding, healthcare, custody and other staff who meet regularly to review the level of risk posed by and to the young people in their care. The chaplain and education staff join these meetings, in order to ensure that vital pieces of the jigsaw about Ashley are not lost and that plans continue to take full account of his fears.

Must-dos

- 'All young people must, on arrival, be assessed for risk of suicide and self-harm.'

  (YJB/Home Office, 2004, National Standard 10.13.)

- 'As consistent with the local information-sharing policy, arrangements must be in place to explain to every young person on reception what and how information will, or could, be shared and why, and to seek their agreement – except where to do so would put that young person or others at increased risk of significant harm, or an adult at risk of serious harm, or if it would undermine the security of the establishment or the prevention/detection of a serious crime.'

  (HMPS, 2007, Prison Service Order (PSO) 4950, para. 5.5.)

- 'Secure establishments must have in place a published child protection procedure, drawn up in conjunction with the local area safeguarding children board. This procedure will be followed whenever there is an allegation of child abuse in the establishment.'

  (National Standard 10.27.)

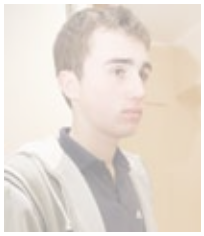
- 'The young person must be invited to complete the Asset self-assessment form and must be given any necessary assistance to do so.'

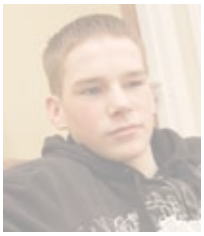
  (National Standard 4.6.)

Effective practice points

- Inquiries into deaths in custody have repeatedly identified the importance of recording information, sharing it with others who need to know, recognising the relevance of information, and acting on information in the Asset form.
- Record each incident. On its own an incident may not be significant. Building up a full picture will allow the significance of incidents to be assessed better.
- Work with young people to increase their understanding of why particular bits of information need to be passed to other people.
- Make sure that staff who attend meetings about young people are those with up-to-date information to contribute to care decisions and future plans.
- Custody staff are the ones who work most closely with young people. The interest they take in a young person's welfare can be a key factor in promoting the young person's confidence and resilience.

Practice example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Example 4: Information sharing within a secure establishment

Rashid – age 17 – Asian

Rashid was sentenced to a two-year DTO after many convictions for burglary over several years. He has been moved between YOIs, primarily because of overcrowding but on one occasion because of racist incidents against him. Rashid is Muslim. He speaks Urdu to his family and to other young people of Pakistani origin in the YOI.

In this YOI, Rashid has been moved frequently between healthcare and the wing because of fainting and dizziness. He has been examined to rule out epilepsy and diabetes, and no organic cause has been found. Staff are concerned that Rashid is becoming increasingly withdrawn and uncommunicative. Some of the wing staff are pressing for more information from healthcare to help them manage his condition.

Rashid has given consent to his named nurse to share information with wing staff about the results of the healthcare tests. But he is worried about his family knowing about his fainting spells, because he fears this will increase their concern for him.

Rashid has told the substance misuse worker that he used cannabis regularly before this detention period but does not want others to know this. He has confided to the psychologist in the mental health in-reach team that he is being bullied. He doesn't want this disclosed either, because last time he told staff about it, he ended up being verbally intimidated and found this even worse to cope with. He says the bullying is similar to the racist taunting that he experienced in the previous YOI.

Rashid is over halfway through his sentence. The numerous placement moves have made it difficult to plan well for his care and aftercare. The YOT worker and personal officer are determined to pull together all available health and social care information for the next sentence planning meeting. The meeting has been arranged at a time that is convenient for Rashid's father and older brother. They were upset and angry that they had no idea about the racist incidents in the previous YOI until after Rashid had been moved.

This example explores the following key practice issues:

- ethnicity;
- sharing information with families;
- bullying, racist incidents and safeguarding; and
- making proper use of available information.

1. Is there a legitimate purpose for sharing information?

Yes. There are clear, legitimate purposes for sharing information in Rashid's case:

- in children's legislation, to safeguard and promote his welfare,[34] and as a child in need;[35]
- in criminal justice legislation, to prevent offending;[36] and
- to enable the YOI and the YOT to plan effectively for Rashid.[37]

2. Is the information confidential?

Rashid has two main worries that he has mentioned in confidence: his past drug use, and bullying.

The medical information about his fainting is also confidential because it is sensitive personal information held by health staff and not in the public domain. Rashid is not forthcoming about the racist incidents and clearly prefers not to talk about them. This information is not confidential because it is not solely personal to Rashid. It refers to the problem of maintaining order and respect between groups of young men from different ethnic groups.

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[34] Sections 10 and 11, Children Act 2004.

[35] Section 17, Children Act 1989.

[36] Sections 17, 37, 38, 39 and 115, Crime and Disorder Act 1998.

[37] YJB/Home Office (2004) National Standards 4 and 10. YJB (2002–03) KEEP manuals on *Assessment, Planning Interventions and Supervision*; *Mental Health*; *Substance Misuse*; and *Resettlement*. HMPS (September 2007) PSO 4950 (paras 5.20–5.35 and 6.28–6.35).

3. Do you have consent to share information?

Rashid has not given consent to share the information about the cannabis or the bullying. Knowing that his father and brother are coming to the meeting increases his wish for staff and his family to be told nothing about these things.

He gives informed consent to the medical information about his fainting being shared with wing staff, but not his family, because he does not want them worrying about him even more.

4. Is there sufficient public interest to share information (even without consent)?

This case is typical in that there are different views about what can and should be shared.

Rashid has given consent for the disclosure of some medical information, but some healthcare and other staff have personal information which he does not want disclosed. The visiting psychologist knows about the bullying. The health worker in the substance misuse team has been told about the cannabis by the substance misuse caseworker. The health team are due to discuss Rashid at their weekly review meeting of all vulnerable young people in the establishment.

The attendance of Rashid's family at the sentence planning meeting is good practice and could provide real benefits for everyone. It will give staff the opportunity to learn more about Rashid and about his family and culture. Families have unique information about their children and this can be invaluable in planning well for their current and future care. Staff are also aware that working with families is key to successful outcomes in the longer term: three-quarters of young people live with their parents on release from custody, and young people with strong family support are six times less likely to re-offend.[38]

But family attendance at meetings can pose extra dilemmas to manage about information sharing. Staff want to talk openly to Rashid's relatives about the test results and the deterioration in his mood. They want to be respectful of the family's cultural traditions – staff know that the family will expect to have full information about Rashid and will be upset if information is kept from them. However, Rashid is 17, has capacity to withhold consent, and has done so.

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[38] YJB (2003) KEEP manual on *Resettlement*.

There is another dilemma to manage: wing staff are concerned that Rashid is becoming increasingly withdrawn. They are uncertain about how much this might be related to his physical and mental health. They have asked for full information and advice from the healthcare team.

The dilemma about disclosing bullying

The psychologist is employed by an NHS trust and is new to the YOI. She is grappling with a professional dilemma: are there grounds to override Rashid's request for confidentiality about the bullying?

She considers whether the bullying amounts to significant harm and whether significant harm might arise for Rashid and others as a result of disclosing information without consent. She has discussed this with the trust's principal psychologist, who provides professional supervision. The principal advised her to respect Rashid's confidence, speak to the YOI anti-bullying co-ordinator without identifying Rashid, consider a group initiative like a workshop to tackle bullying, and review the position with Rashid after a few days.

However, such an approach does not sit easily with the safeguarding policy and practice of the YOI, which sees bullying as a risk of significant harm that must always be reported and acted on. The psychologist is mindful that racism is a component of the bullying and that a racist incident report will have to be completed. She is aware, too, of the legal requirement on public services, including the Prison Service, to promote good relations between people of different ethnic backgrounds.[39]

The psychologist decides that the right course of action is to explain to Rashid that she has to disclose the information about bullying (to help keep him safe). She tells him how and when she will do this. She decides, too, to alert custody staff to the need for increased vigilance, and to undertake some additional work on the wing, for staff and young people, to help deal with racist behaviour and bullying.

The dilemma about disclosing substance misuse

The substance misuse worker and the YOT's health worker decide that the information about the past use of cannabis can be treated as confidential, because it has no implications for Rashid's current safety or for security in the establishment. To disclose the drug misuse could jeopardise the working

[39] Race Relations (Amendment) Act 2000.

relationship that the substance misuse worker has established with Rashid. In the course of her further work she will discuss, and seek to agree, with Rashid what she can tell the YOT and the substance misuse service in his home area before his release. She wants to make sure that Rashid gets continued help to stay off drugs as part of the aftercare service. Because of Rashid's clearly stated views, she decides not to mention the cannabis in the part of the meeting attended by his family.

The dilemma about disclosing health problems

Staff from different disciplines have different traditions and codes of conduct about information sharing, although the same criteria about confidentiality apply to all. In relation to information about Rashid's physical health, there is a difference of view between the healthcare and wing staff. The nurse wants to respect Rashid's wishes about not telling his family about the fainting and dizzy spells. But the wing staff, after taking advice from their managers, decide that they must tell the family of their concern about Rashid's uncommunicative and withdrawn state. They are guided by the provision in Prison Service Orders about informing families of significant events.[40] After discussion with the nurse and with Rashid, it is decided that the family will be told also about the health tests and negative results. It is hoped that this information will offer them some reassurance, as well as paving the way for discussion about possible reasons for Rashid's unhappiness and what might be done to help him.

Making proper use of available information

It is the practice in some secure establishments to have different files for different types of information. This adds to the risk that information will not be pooled (or not pooled quickly enough) to provide a comprehensive picture of a young person's behaviour. The introduction of eAsset[41] will help to ensure that all the key information relating to a young person is held in one central location which can be accessed by all relevant staff. Whether relying on electronic or manual records, it is important that staff have proper access to essential information stored within the establishment. Staff are reminded that inquiry reports have highlighted the frequency with which information held on file has either not been read or not been taken into account when plans are being made for young people.

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[40] HMPS (September 2007) PSO 4950.

[41] eAsset allows the Asset form to be constantly updated and amended throughout a young person's stay in custody, and to be exchanged by staff in both the community and the secure estate. It includes the community section of a young person's DTO.

Considerations of ethnicity

There are some key issues here.

One is about the racist incidents. Rashid's personal officer checks with senior managers in the YOI to see what is known about the tensions in the previous YOI and what can be learnt from that information to plan for Rashid's continuing safety.

Another issue is about working with family perceptions and beliefs. Being an Urdu-speaking Muslim of Pakistani background has a profound influence on both Rashid's experience of his sentence and his view of information sharing. His family expect to be informed about all aspects of Rashid's life in the YOI. They do not agree with the notion of a young family member having the right to withhold consent for information to be shared with them. There are differences in expectations between different cultures (and inevitably between different families within the same culture) about the extent to which young people should be allowed to make decisions independently of their family. It is important for staff to recognise and understand these possible differences, to ask families what is important for them, and – where necessary – to help build bridges between important people in a young person's life. The sentence planning meeting asks a YOT worker with a Muslim background to speak to Rashid's family about the YOI and YOT information-sharing policies and about the legal requirements on which they are based.

A third issue concerns the use of interpreters. Rashid has been educated in England and his family speak good English too, so the question of interpreters does not arise. In circumstances where interpreters are needed, there is an additional set of questions regarding confidentiality. This is especially significant if the interpreter normally used comes from the same small ethnic community as the young person's family. It is important to find an interpreter who does not have a previous or likely connection to the young person and their extended family, to minimise the family's difficulty in sharing information with staff.

Must-dos

- 'Parents and carers must be notified of significant events that affect the young person whilst in custody.'

  (YJB/Home Office, 2004, National Standard 10.29.)

- 'The establishment's information-sharing policy must provide that information is passed to families or other appropriate adults on each of the following occasions:

  – on first reception;

  – at the conclusion of the initial sentence planning process;

  – after each important review;

  – prior to release (to encourage their contribution);

  – where control and restraint have been used on the young person; and

  – at other significant events such as illness, self-harm or transfer.'

  (HMPS, September 2007, PSO 4950, para. 2.3.2 (iv) and Annex D.)

- 'Families and friends and the YOT and social workers are seen as valuable sources of information to help keep children and young people safe. They are encouraged … to provide information which may help identify those children and young people likely to be bullied or self-harm.'

  (Ofsted, 2006, Expectation 4, in the safeguarding section of the inspection criteria.)

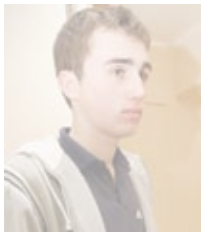
- 'All staff demonstrate an understanding and promote respect for ethnic and cultural groups. Inappropriate language or conduct by staff, children or young people is challenged.'

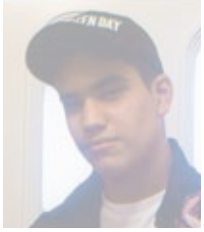
  (Ofsted, 2006, Expectation 1, in the race relations section of the inspection criteria.)

Effective practice points

- Ensure that your notes are clear and well organised so that the important points stand out. The quality of information sharing largely depends on the quality of case recording.
- There should be a regular management check on the quality of file entries.
- Include families in meetings with young people. This improves information sharing.
- Communicate in the preferred language of the family and young person.
- Use the skills and knowledge of other staff, in a secure setting or the community, to enhance your communication with young people and their families.
- If you need an interpreter (or someone to help with other communication difficulties), include them in all meetings with young people and their families, not just the meetings that you consider important.

Practice example




Example 5: Resettlement and aftercare

Eddie – age 17 – White British

Eddie was convicted of grievous bodily harm and sentenced to a 10-month DTO. Before his sentence, Eddie used crack cocaine regularly and also injected drugs. While under the influence of drugs, he beat up a young man of 22 who had previously been placed in the same foster home. Eddie believed this man had spread stories about his mother's drug misuse. He has shown little remorse about this violent offence and justifies it in terms of defending his family's name. During the same incident, Eddie is alleged to have made a sexual assault on a young woman. This has been investigated but found not to be substantiated. An assessment for drug-induced psychosis was underway at that time.

Eddie has made good progress at the YOI in addressing his drug misuse. The healthcare team has observed no symptoms of psychosis, but is alert to the possibility of Eddie reverting to using drugs after his release. Eddie has confided to the substance misuse worker that he is worried about this, especially when he visits his family. He implies that drugs are usually available at home. Eddie has hepatitis B.

Eddie is subject to a Care Order. From the age of 14 he had 18 months of relative stability in a foster home. But the placement broke down when he made inappropriate sexual advances to the 20-year-old daughter of the foster family. Eddie does not recognise fully the distress caused by this behaviour – he says that he was misunderstood and that she overreacted.

On the wing, Eddie continues to justify his violent attack on the young man and makes general threats to people who criticise his mother or who do not seem to understand why he had to defend her reputation.

Eddie has made progress in education, too, during his time in custody. As part of his resettlement plan he has a college place. He has also been accepted for social housing. At the time of his arrest Eddie was living at home after a period of homelessness and sleeping rough. Sentence planning meetings have included Eddie's mother, partly as a result of the support she has had from a local voluntary organisation that works with parents of adolescents. The YOT worker is preparing for the next sentence planning meeting, to make progress on Eddie's individual resettlement plan.

The example explores the following key practice issues:

- resettlement;
- substance misuse;
- blood-borne viruses; and
- sharing information proportionately with external bodies (education and housing).

1. Is there a legitimate purpose for sharing information?

Yes. There are clear, legitimate purposes for sharing information in Eddie's case:

- in children's legislation, to safeguard and promote his welfare,[42] and because he is a looked after child;[43] and
- in criminal justice legislation, to prevent offending;[44] and
- so that the YOI and the YOT can plan effectively for his release and aftercare.

2. Is the information confidential?

Eddie's continued aggression towards his male victim is not confidential because Eddie has told many people, and in public places, that 'he had it coming to him'. Eddie did not accept advice to keep quiet about the reason for his sentence. He was advised to stick to general comments only, but he has made the mistake of talking to some young people he thought he could trust. As a result, his family story is common knowledge on the wing and this presents a risk to Eddie remaining calm.

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[42] Sections 10 and 11, Children Act 2004.

[43] Sections 22 and 24, Children Act 1989.

[44] Sections 17, 37, 38, 39 and 115, Crime and Disorder Act 1998; Criminal Justice and Court Services Act 2000; Criminal Justice Act 2003.

The worries that Eddie has shared with the substance misuse worker are confidential as they were discussed within a confidential client relationship. This is consistent with the YJB National Standard about respecting the privacy of individuals, where possible.[45]

3. Do you have consent to share information?

The contentious issue, in the absence of consent from Eddie to share information, is his worry that he will revert to drug misuse, especially if he goes back to live with his mother. The substance misuse worker is aware that insensitive use of information about drug use at home has previously been a trigger for Eddie's offending behaviour.

The issue of consent about Eddie's hepatitis B status does not arise. This information can and will remain confidential because the YOI will have standard precautions in place for dealing with blood-borne viruses. The secure establishment will expect to have a number of young people with a blood-borne virus and these standard procedures will remove the need for staff to know about this aspect of an individual young person's health status. Health staff at the YOI consider whether the college should be informed. They conclude that this is not necessary because the college, for the same reason as the YOI, will have precautions in place.

4. Is there sufficient public interest to share information (even without consent)?

The on-site YOT worker has been told by wing staff about Eddie's firm belief that his male victim is spreading stories about his mother's drug misuse. Wing staff have taken into account Eddie's wish that his mother's substance misuse should remain confidential. However, they have made a judgement that there is a continuing risk of serious harm to an adult (the 22 year old who was beaten up by Eddie) and that, in the absence of Eddie's consent to disclose, they have an overriding duty to share the information with the YOT worker. The wing staff recognise that Eddie might see this decision as provocation, triggering aggressive behaviour that will be difficult to manage.

The substance misuse worker has a similar dilemma. She has done some good work with Eddie, who now has a better understanding of how drugs affect his behaviour. He remains mistrustful of people in authority, including his

[45] YJB/Home Office (2004) National Standard 10.24.

social worker. He does not want the substance misuse worker to disclose anything which has arisen in his one-to-one sessions with her. She is aware that harm may arise from disclosure: Eddie might have an aggressive outburst, or he might lose trust in seeking professional help in the future.

She talks to Eddie about the information-sharing policy that was explained to him when he was first admitted to the YOI and again when she started working with him. She explains that she has to disclose the information about the increased risk of anti-social behaviour if he starts using crack cocaine again and about her opinion that this risk is likely to be higher if Eddie goes home. She explains how the proper disclosure of this information will, in her judgement, reduce the risk of serious crime. She also explains who she needs to tell, and why – it is so that those who are working with Eddie have full information for making plans for his release and aftercare, including providing the sort of help that she has been giving him. She tells Eddie about the social worker's legal responsibilities to provide support for him, as a care leaver.[46]

Passing on information to education and housing agencies

The college and the housing association must be informed of the circumstances of the offence for which Eddie has been convicted. This is because of the continued risk of serious harm by Eddie.

The YOT worker seeks advice from his line manager about whether to disclose other information about Eddie, especially the unsubstantiated allegation of sexual assault and the reasons for the foster placement breakdown. They check the information-sharing protocols that have been agreed with the local college and housing association, and seek confirmation from each agency about the security of the information that will be shared. The YOT worker prepares a brief report, extracting relevant information from the Asset form. This report notes Eddie's offence, his firm belief that he was provoked, and (in general terms) his sensitivity about his family background. Reference is made to the unsubstantiated allegation, and to the conclusion of the investigating officers that the allegation was without foundation. The report also states that Eddie's inappropriate sexual attention towards the young woman in the foster family was a contributory factor in the placement breakdown.

[46] Children (Leaving Care) Act 2000.

A brief report about relevant factors is better information-sharing practice than passing on a large amount of unfocused information – quality is better than quantity. Simply passing the Asset form to external agencies would not be acceptable practice, because it includes far more information than is necessary for the purpose for which it is being shared. The housing and college authorities need to know the outcome of the risk assessment, not the detailed historical family health and social care information on which the assessment is based. This is an example of the sharing of information which is proportionate.

Passing on information to substance misuse and mental health services
Eddie had given his consent to the substance misuse worker sending information about her work with him to the drug service in the area where he will be living. But he threatens to withdraw this consent during an angry outburst before the meeting about the resettlement plan. It would be good practice for the substance misuse worker to return to the issue of consent at a future session with Eddie. Although it is likely that there are strong public interest grounds for overriding his refusal, it will be best for Eddie if he can be encouraged to give his consent to this.

Must-dos

- 'YOTs and secure facilities must ensure the exchange of information relating to young people in custody within prescribed timescales, and that work begun in custody is carried on following release.'

  (YJB/Home Office, 2004, National Standards, page 4.)

- 'Staff should respect the privacy of the individual, provided this does not jeopardise good order and discipline or the security of individuals.'

  (YJB/Home Office, 2004, National Standard 10.24.)

- 'Planning for effective resettlement must start during induction and at the first sentence planning meeting, and governors must ensure that every young person – and, where possible and appropriate, the young person's family – can be involved in the development of their individual resettlement plan.'

  (HMPS, September 2007, PSO 4950, para. 6.28.)

Effective practice points

- Identify which bits of information to share, distinguish fact from opinion, and ensure that the information will go to the right people and no further.
- Meetings are often the best way of sharing information, for example by teaching staff from a secure unit accompanying young people on their first visit to a community college.
- When passing on written information, quality is better than quantity.
- Make decisions based on the facts of the case, balancing the likely harm arising from overriding confidentiality with the likely harm to the individual and the public from withholding vital information.

Annexes

Annex 1: Glossary of terms

(Based on *Information sharing: Practitioners' guide*, DfES (2006a))

Caldicott Guardians. Senior staff in the NHS and social services who are appointed to have responsibility for protecting patient confidentiality and advising on lawful and ethical information sharing. There is a national register and a manual of guidance (Department of Health (DH), October 2006).

Confidential information. Information not normally in the public domain or readily available from another source.

Consent. Agreement (to an action) that is given freely and is based on knowledge and understanding of what is involved and its likely consequences. The person to whom the information relates should understand why particular information needs to be shared, who will use it and how, and what might happen as a result of either sharing it or not.

Explicit consent. Consent given orally or in writing. **Implied consent** is where the person has been informed about the information to be shared, about the purpose for sharing and about their right to object, and their agreement to sharing has been signalled by their behaviour, rather than by their giving consent orally or in writing.

Gillick competent, now referred to as Fraser competent. This refers to a court case that set out some guidelines for professionals to help them to decide whether a young person under the age of 16 was able to give or withhold consent to medical treatment, without professionals having to seek consent from the person with parental responsibility. The case decided that, providing a child under the age of 16 had sufficient understanding of a proposed medical treatment, they could give or withhold consent themselves. The senior judge hearing the case in the House of Lords was Lord Fraser, hence the reference to Fraser guidelines. The guidelines stress that the young person must understand the advice being given and must indicate that they cannot be persuaded to involve their parents, and that the

professional must be satisfied that if the young person does not receive treatment their physical or mental health will suffer.

Public interest. The interests of the community as a whole, or of a group within the community, or of individuals.

Public interest test. A process a practitioner uses to decide whether to share confidential information without consent. It requires them to consider the competing public interests – for example, the public interest in protecting children, promoting their welfare or preventing crime and disorder and the public interest in maintaining public confidence in the confidentiality of public services. The risks of not sharing have then to be balanced against the risks arising from sharing. The public interest test requires that disclosures must be necessary and proportionate. To be **necessary**, the disclosure should prevent, or contribute to preventing, the significant harm occurring. A **proportionate** response requires professionals to consider the likelihood of any significant harm occuring as a result of the potential disclosure and weigh this against the likelihood of any significant harm occurring if the information is not disclosed.

Safeguarding and promoting welfare. The process of protecting children from abuse or neglect, preventing impairment of their health and development and ensuring that they are growing up in circumstances consistent with the provision of safe and effective care to enable them to optimise their life chances and enter adulthood successfully.

Serious crime. For the purposes of this guidance, this means any crime that causes or is likely to cause significant harm to a child or young person, or serious harm to an adult.

Serious harm. The Youth Justice Board (YJB) guidance on completing the Asset form (see footnote 17) defines serious harm as 'death or injury (either physical or psychological) which is life threatening and/or traumatic and from which recovery is expected to be difficult, incomplete or impossible'.

Significant harm. There are no absolute criteria on which to rely when judging what constitutes significant harm. Sometimes a single traumatic event may constitute significant harm, for example a violent assault, suffocation or poisoning. More often, significant harm is a constellation of significant events, both acute and long standing, which interrupt, change or damage a child's physical and psychological development. For more information, see *Working Together to Safeguard Children* (DfES, 2006c).

Well-being. Under the Children Act 2004, well-being is linked to helping children to achieve the five Every Child Matters outcomes: be healthy; stay safe; enjoy and achieve; make a positive contribution; and achieve economic well-being. For vulnerable children, the achievement of these outcomes is likely to depend upon the provision of services to safeguard and promote their welfare.

Annex 2: Legislation

A. Legislation which provides the framework (the legitimate purpose) for information sharing in relation to young people involved in the youth justice system

Children Act 1989
Introduces the concepts of 'significant harm' and 'children in need'. Sets out the duties on local authorities in relation to children in need, children at risk of or suffering significant harm and children looked after. Places duties on educational, housing and NHS bodies to co-operate in fulfilling these duties.

Key sections: 17, 27, 31, 47; 22 in relation to looked-after children; 23–24 in relation to care leavers; Schedule 2.

Children Act 2004
Develops and clarifies the duties in the Children Act 1989. Requires police, probation, youth offending teams (YOTs), strategic health authorities (SHAs) and primary care trusts (PCTs) (among others) to co-operate with the local authority in making arrangements to improve children's well-being. Places duties on police, probation, NHS bodies, YOTs, governors/directors of prisons, young offender institutions (YOIs) and secure training centres (STCs) among others to ensure that their functions are discharged with regard to the need to safeguard and promote the welfare of children.

Key sections: 10 and 11.

Crime and Disorder Act 1998
Sets up YOTs and the YJB. Requires co-operation by the police, heath authorities and local authorities in the operation and running of the YOTs and gives the YJB the role of monitoring and advising on the operation of the youth justice system. Sets out the principal aim of the youth justice system: to prevent offending by children and young people. Gives specific powers to share information.

Key sections: 17, 37, 38, 39 and 115

Criminal Justice Act 2003
Sections 325–327 set out the requirements on named bodies to assess and manage risks posed by sexual or violent offenders. Named bodies include YOTs, NHS bodies and education, housing and social services authorities.

National Health Service Act 1977 and Health Act 1999
Provide for a comprehensive health service for England and Wales, to improve the physical and mental health of the population and to prevent, diagnose and treat illness. Provides for sharing information with other NHS professionals and with practitioners from other agencies carrying out health services functions that would otherwise be carried out by the NHS (Section 2, 1977 Act). States that NHS bodies and local authorities must co-operate with one another in order to secure people's health and welfare (Section 27, 1999 Act).

B. Legislation that deals generally with the processing of personal information and rules in relation to information sharing

Data Protection Act 1998
Schedule 1 sets out the basic principles to be complied with when processing personal data. They include that it must be relevant, accurate, up to date, kept for no longer than necessary and processed fairly, lawfully and in accordance with the rights of the individual. Schedule 2 sets out the conditions for processing (including sharing) personal, and personal and sensitive, information. Most relevant for youth justice cases are the conditions that relate to consent, legal duties and statutory functions.

Human Rights Act 1998
Incorporates the European Convention on Human Rights. Article 8 states that everyone has the right to respect for their private and family life, home and correspondence. This is a qualified right, meaning that it can be interfered with in certain circumstances. Case law has established that the welfare of children is relevant when deciding whether the interference is justified. Interference must be proportionate to the legitimate aim being pursued.

Common law duty of confidentiality

There is no specific piece of legislation relating to confidentiality and the circumstances in which confidential information can be shared. Instead, the law has been developed through challenges made in the civil courts to the disclosure of information in particular cases. Where there is a confidential relationship, the person receiving the information should not pass it on to a third party unless the information given is not confidential, the person to whom the duty is owed has given consent to pass it on, or there is an overriding public interest in disclosure. Cases on 'overriding public interest in disclosure' have established some examples of situations in which information can be disclosed. These include cases where disclosure would help to prevent the person who gave the information, or someone else, suffering significant harm. Since the implementation of the Human Rights Act 1998, judges considering cases of possible breach of confidentiality, or cases complaining about the failure to disclose information, have tended to consider the issue of confidentiality together with Article 8 of the 1998 Act, where the issue of the welfare of the child is an important factor in justifying interfering with the right to privacy.

Annex 3: Further reading

Note that references are listed alphabetically by author within each section. You may need to check all three sections to locate a document mentioned in the main text.

A. Key publications

DfES (2006a) *Information sharing: Practitioners' guide*.

DfES (2006b) *Information sharing: Further guidance on legal issues*.

These companion documents are for the whole of the children's workforce, to improve information sharing as a means of achieving better outcomes for children.
www.everychildmatters.gov.uk/resources-and-practice/IG00065

DfES (2006c) *Working Together to Safeguard Children*.
This is the Government's inter-agency guidance to ensure that children are properly safeguarded by everyone who works with them. Paragraph 11.5 is about children living away from home, including those in the secure estate.
www.everychildmatters.gov.uk/resources-and-practice/IG00060

HM Prison Service (September 2007) Prison Service Order 4950, *Care and Management of Young People*.
Prison Service Orders (PSOs) are mandatory instructions, invariably known by their title number. PSO 4950 describes how HM Prison Service, in partnership with the YJB, will care for young people. Annex D deals with information sharing.
www.hmprisonservice.gov.uk

B. Reviews and investigation reports

David Lambert, CBE (2005) *Review of the effectiveness of operational procedures for the identification, placement and safeguarding of vulnerable young people in custody*. Report commissioned by the Minister for Correctional Services, following the death of Joseph Scholes at Stoke Heath YOI in March 2002.
http://press/homeoffice.gov.uk/documents/lambert-report-180906

Healthcare Commission (2006) *'Let's talk about it': A review of healthcare in the community for young people who offend*. Commission for Healthcare Audit and Inspection.
www.healthcarecommission.org.uk/_db/_documents/YOTs_report.pdf

House of Commons (2006) *Report of the Zahid Mubarek Inquiry*. HC 1082. The Stationery Office.
www.official-documents.gov.uk/document/hc0506/hc10/1082/1082_i.asp

Stephen Shaw (April 2006) *Circumstances surrounding the death of a boy at Hassockfield Secure Training Centre on 8 August 2004: Report by the Prisons and Probation Ombudsman for England and Wales*.
www.ppo.gov.uk/download/fatal-incident-reports/091.04%20Death%of%a%Boy.pdf

C. Other reading

DfES (November 2001) *Special Educational Needs Code of Practice*.
www.teachernet.gov.uk/_doc/3724/SENCodeofpractice.pdf

DfES (2006d) *Common Assessment Framework for Children and Young People*.
www.dcsf.gov.uk

DH (2001) *Children (Leaving Care) Act 2000: Regulations and Guidance*.
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH_4005283

DH (2002) *Seeking Consent: Working with People in Prison*.
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4008751

DH (2003) *Confidentiality: NHS Code of Practice*.
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4069253

DH (2006) *The Caldicott Guardian Manual 2006*.
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_062722

General Medical Council (2004) *Confidentiality: Protecting and Providing Information*.
www.gmc-uk/org/guidance/current/library/confidentiality.asp

HM Prison Service (September 2004) Prison Service Order 9020, *The Data Protection Act 1998 and the Freedom of Information Act 2000*.
www.hmprisonservice.gov.uk/resourcecentre/freedomofinformation

HM Prison Service, Safer Custody Group (2006) *The ACCT Approach. Caring for People at Risk in Prison. Pocket Guide for Staff.*
www.hmprisonservice.gov.uk
http://www.hmprisonservice.gov.uk/assets/documents/10000CIBACCTStaffGuide.pdf

HM Prison Service (September 2006) Prison Service Order 2800, *Race Equality*.
http://pso.hmprisonservice.gov.uk/PSO_2800_race_equality.doc

HM Prison Service (October 2007) Prison Service Order 2700, *Suicide Prevention and Self-Harm Management*.
www.hmprisonservice.gov.uk

Home Office (2006) *Keeping Communities Safe: Multi-Agency Public Protection Arrangements*.
http://press.homeoffice.gov.uk/press-releases/multi-agency-public-protection

Nursing and Midwifery Council (2004) *The NMC code of professional conduct: standards for conduct, performance and ethics*.
www.nmc-uk.org/aDisplayDocument.aspx?DocumentID=201

Ofsted (2006) *Common Inspection Framework, amended for use in Young Offender Institutions. Incorporating Juvenile Expectations, Her Majesty's Inspectorate of Prisons' criteria for assessing the conditions for and treatment of young people in custody*.
www.ofsted.gov.uk/assets/Internet_Content/Shared_Content/Forms_and_guidance_publications/cif_yoi.pdf

YJB (2001) *Guidance for Youth Offending Teams on Information Sharing*. (Predates developments under the Every Child Matters agenda but includes responsibilities about information sharing and advice about developing local protocols.)
www.yjb.gov.uk/publications/scripts/prodview.asp?idproduct=74&eP=

YJB (2002–04) *Key Elements of Effective Practice* (KEEP) – a series of simple practice manuals. Titles include *Resettlement* (2003); *Mental Health* (2003); *Substance Misuse* (2003); and *Assessment, Planning Interventions and Supervision* (2002).
www.yjb.gov.uk

YJB (2006) *The Common Assessment Framework, Asset and Onset: Guidance for youth justice practitioners*.
www.yjb.gov.uk/publications/scripts/prodview.asp?idproduct=314&eP=

YJB (2007) *Serious Incidents: Guidance on serious incident reporting procedures*.
www.yjb.gov.uk/publications/scripts/prodview.asp?idproduct=347&eP=

YJB/Association of Chief Police Officers (2005) *Sharing Personal and Sensitive Personal Information on Children and Young People at Risk of Offending: A Practical Guide*.
www.yjb.gov.uk/publications/scripts/prodview.asp?idproduct=211&eP

YJB/Home Office (2004) *National Standards for Youth Justice Services*.
www.yjb.gov.uk/publications/scripts/prodview.asp?idproduct=155&eP

Annex 4: Key points for writing information-sharing leaflets for young people and families

Each service should have an information-sharing leaflet, designed and written in consultation with young people and their families. Leaflets should be written locally, to reflect local circumstances. You should use simple, everyday words.

An information leaflet should be given out at the start of contact between the service and a young person and their family.

Questions to consider about content

1. Does the leaflet explain the purposes of keeping information (to promote well-being and ensure that people get the best possible service)?

2. Does it say what 'confidential' means in this context and what the limits to confidentiality are (referring to the protection of children from significant harm and the prevention of serious crime)?

3. Does it tell people that the agency has to ensure that information is up to date and accurate, is kept securely, and can be shared only with someone who really needs to know it?

4. Does it explain how young people can see their record?

5. Does it say that the leaflet will be discussed in person with young people and their family?

6. Does it give information about how to contact local and national advocacy services?

7. Are translations available in the relevant local community languages?

Annex 5: Abbreviations

ACCT	Assessment, Care in Custody and Teamwork (Plan)
ADHD	Attention deficit hyperactivity disorder
ASD	Autistic spectrum disorder
CAF	Common Assessment Framework
CAMHS	Child and Adolescent Mental Health Services
DCSF	Department for Children, Schools and Families (formerly DfES)
DfES	Department for Education and Skills (now DCSF)
DH	Department of Health
DTO	Detention and Training Order
HMPS	Her Majesty's Prison Service
ICS	Integrated Children's System
KEEP	Key Elements of Effective Practice
LAC	Looked after children
NHS	National Health Service
PSO	Prison Service Order
SCH	Secure Children's Home
SEN	Special Educational Needs
STC	Secure Training Centre
YJB	Youth Justice Board
YOI	Young Offender Institution
YOT	Youth Offending Team

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