

# **PART 2**

## **GUIDANCE ON INFORMATION SHARING**

**Summary**

**Seven Golden Rules**

**Legislative Framework**

**Confidentiality**

**Eight Key Principles**

**Additional Points**

## **INFORMATION SHARING**

### **Summary**

1. **The County Council has produced detailed and established guidance on information sharing. It can be found on the County Councils Intranet (County Council employees only). WHERE???**
2. Other organisations working with, or whose work brings them into contact with children, young people and families, also produce their own information sharing guidance and protocols. Each individual should be familiar with their own agency's guidance.
3. As part of the 'Every Child Matters' publications, HM Government has produced four publications of non-statutory guidance with regard to information sharing, **on which the following guidance is based**. These are:
  - Information Sharing: Guidance for practitioners and managers. (2008) DCSF
  - Information sharing: Case examples. (2008) DCSF
  - Information sharing: Further guidance on legal issues.(2009) DCSF
  - Information Sharing: Pocket guide. (2008) DCSF

These publications can be downloaded from:

[www.everychildmatters.gov.uk/informationsharing](http://www.everychildmatters.gov.uk/informationsharing)

or search

[www.teachernet.gov.uk/](http://www.teachernet.gov.uk/)

using reference 00807-2008BKT-EN.

4. **NB: Sharing information is vital for early intervention to ensure that children and young people with additional needs get the services they require. It is also essential to protect children and young people from suffering harm from abuse and neglect and to prevent them from offending.**

<p><b>A recurring factor in serious case reviews has been a failure in sharing information effectively.</b></p>
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### **Sharing information where there are concerns about significant harm to a child or young person**

5. It is critical that where you have reasonable cause to believe that a child or young person **may be suffering or may be at risk of suffering significant harm**, you should always consider referring your concerns to

children's social care or the police, in line with Staffordshire Safeguarding Children Board (SSCB) procedures.

- In some situations there may be a concern that a child or young person may be suffering, or at risk of suffering significant harm, or of causing significant harm to another child or serious harm to an adult. However, you may be unsure whether what has given rise to your concern constitutes 'a reasonable cause to believe'. In these situations, the concern must not be ignored. You should always talk to someone to help you decide what to do – a lead person on safeguarding, a Caldicott guardian, your manager, an experienced and trusted colleague or another practitioner who knows the person. You should protect the identity of the child or young person wherever possible until you have established a reasonable cause for your belief.
- Significant harm to children and young people can arise from a number of circumstances – it is not restricted to cases of deliberate abuse or gross neglect. For example a baby who is severely failing to thrive for no known reason could be suffering significant harm but equally could have an undiagnosed medical condition. If the parents refuse consent for further medical investigation or an assessment, then you may still be justified in sharing information. In this case, the information sharing would be to help ensure that the causes of the failure to thrive are correctly identified.

### **Sharing information where there are Concerns about Serious Harm to an Adult**

- You may be sharing information about an adult as part of your aim to deliver more effective intervention at an earlier stage to prevent problems escalating and to increase the chances of achieving positive outcomes. However there may also be situations where you may want to share information because you are concerned about serious harm to an adult.
- If you believe the adult you are dealing with is vulnerable or unable to make informed decisions then you will need to take this into consideration when making your decision. Where harm, or risk of harm, to a vulnerable adult is suspected appropriate action should be taken in accordance with your local codes of practice. You should contact the appropriate person, for example, a safeguarding officer or vulnerable adult's worker.

### **Sharing information where there are Concerns about Significant Harm or Serious Harm to Third Parties**

6. Where you have concerns that the actions of some may place children at risk of significant harm or adults at risk of serious harm, it may be possible to justify sharing information with or without consent for the purposes of identifying people for whom preventative interventions are appropriate. As set out above, significant harm to children and serious harm to adults is not restricted to cases of extreme physical violence. For example, the cumulative effect of repeated abuse or threatening behaviour may well constitute a risk of serious harm to an adult. The theft of a car for joyriding or driving with poor eyesight may well constitute a risk of harm to others in the community as well as those in the car.

### **Sharing information where you have a Statutory Duty or a Court Order**

7. Where you have a statutory duty or court order to share information you must do so unless, in the case of a court order, your organisation is prepared to challenge it. For more details see section - **Sharing information where you have a statutory duty or a court order** in the main guidance

### **Sharing Information in an Emergency Situation (Terrorist-Related Action, Natural Disaster and other Incidents)**

8. The nature of emergency situations will vary but information sharing is always a vital part of providing services to the people affected by them. Whilst the principles and legislative basis underpinning the sharing of information are broadly the same in an emergency situation, it is more likely than not that it will be in the interests of the individuals for personal data to be shared.
9. Timeliness is a key consideration in emergency situations. It may not be appropriate to seek consent for information sharing if delays could incur as a result. You should always consider how much information needs to be shared to achieve the objective and the most appropriate way in which to do so given the urgency of the situation. Security of information sharing must still be considered but should be proportionate to the sensitivity of the information and the circumstances.

### **Seven Golden Rules For Information Sharing**

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

- **Be open and honest** with the person (and/or their family where appropriate) from the outset about why, what, how and with whom information will, or could be shared, and seek their agreement, unless it is unsafe or inappropriate to do so.
- **Seek advice** if you are in any doubt, without disclosing the identity of the person where possible.
- **Share with consent where appropriate** and, where possible, respect the wishes of those who do not consent to share confidential information. You may still share information without consent if, in your judgement, that lack of consent can be overridden in the public interest. You will need to base your judgement on the facts of the case.
- **Consider safety and well-being:** Base your information sharing decisions on considerations of the safety and well-being of the person and others who may be affected by their actions.
- **Necessary, proportionate, relevant, accurate, timely and secure:** Ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those people who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely.
- **Keep a record** of your decision and the reasons for it – whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose.

### **Further Information to Inform Decision Making**

10. If you are asked, or wish, to share information, you must use your professional judgement to decide whether to share or not and what information it is appropriate to share, unless there is a statutory duty or a court order to share.
11. To inform your decision making this section sets out further information in the form of seven key questions about information sharing:
12. Is there a clear and legitimate purpose for you or your agency to share the information?
13. Does the information enable a living person to be identified?
14. Is the information confidential?
15. If the information is confidential, do you have consent to share?

16. If consent is refused, or there are good reasons not to seek consent to share confidential information, is there a sufficient public interest to share the information?
17. If the decision is to share, are you sharing information appropriately and securely?
18. Have you properly recorded your information sharing decision?
19. Further information on each of the questions can be found in the remainder of this section.

**Question 1: Is there a clear and legitimate purpose for sharing information?**

20. If you are asked, or wish, to share information about a person you need to have a good reason or a clear and legitimate purpose to do so. This will be relevant to whether the sharing is lawful in a number of ways.
21. If you work for a statutory service, for example, education, social care, health or justice, the sharing of information must be within the functions or powers of that statutory body. It is likely that this will be the case if you are sharing the information as a normal part of the job you do for that agency. This will also be the case if you work in the private or voluntary sector and are contracted by one of the statutory agencies to provide services on their behalf.
22. Whether you work for a statutory or non-statutory service, any sharing of information must comply with the law relating to confidentiality, data protection and human rights. Establishing a legitimate purpose for sharing information is an important part of meeting those requirements. There is more information about the legal framework for sharing information in the document *Information Sharing: Further guidance on legal issues*.
23. Individual agencies may have developed specific guidelines and processes for sharing information. You will need to be guided by your agency's policies and procedures and – where applicable – by your professional code.

## **Sharing Information where you have a Statutory Duty or a Court Order**

24. In some situations you are required by law to share information, for example, in the NHS where a person has a specific disease about which environmental health services must be notified. There will also be times when a court will make an order for certain information or case files to be brought before the court.
25. These situations are relatively unusual and where they apply you should know or be told about them. In such situations, you must share the information, even if it is confidential and consent has not been given, unless in the case of a court order, your organisation is prepared to challenge it and is likely to seek legal advice.
26. Consent from the individual is not required in these situations and should not be sought because of the potential consequences of refusal. Wherever possible, subject to considerations set out below, you should inform the individual concerned that you are sharing the information, why you are doing so, and with whom.

## **Question 2: Does the information enable a living person to be identified?**

27. In most cases the information covered by this guidance will be about an identifiable living individual. It may also identify others, such as a child, partner, parent or carer. If the information is anonymised, it can be shared. However, if the information is about an identifiable individual or could enable a living person to be identified when considered with other information, it is personal information and is subject to data protection and other laws. The remainder of this section provides further information to inform your decision about sharing personal information.
28. Wherever possible, you should be open about what personal information you might need to share and why. In some situations, it may not be appropriate to inform a person that information is being shared or seek consent to this sharing, for example, if it is likely to hamper the prevention or investigation of a serious crime<sup>4</sup> or put a child at risk of significant harm or an adult at risk of serious harm.

## **Question 3: Is the information confidential?**

29. Confidential information is:

- personal information of a private or sensitive nature; and
- information that is not already lawfully in the public domain or readily available from another public source; and

- information that has been shared in circumstances where the person giving the information could reasonably expect that it would not be shared with others.

**30. This is a complex area and you should seek advice if you are unsure.**

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

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

32. Confidence is only breached where the sharing of confidential information is not authorised by the person who provided it or, if about another person, by the person to whom it relates. If the information was provided on the understanding that it would be shared with a limited range of people or for limited purposes, then sharing in accordance with that understanding will not be a breach of confidence. Similarly, there will not be a breach of confidence where there is consent to the sharing.

33. Information about an individual or family is confidential to the agency as a whole, and not to individual practitioners. However individual practitioners do have a responsibility to maintain the confidentiality of the information. They should only share confidential information with other practitioners in the same agency or team for genuine purposes, for example, to seek

advice on a particular case or ensure cover for work while on leave. This should be explained clearly to the individual or family at the start of the involvement.

34. Public bodies that hold information of a private or sensitive nature about individuals for the purposes of carrying out their functions (for example children's social care, young people's health services or adult mental health services) may also owe a duty of confidentiality, as people have provided information on the understanding that it will be used for those purposes. In some cases the agency may have a statutory obligation to maintain confidentiality, for example, in relation to the case files of looked after children.

#### **Question 4: Do you have consent to share?**

35. Consent issues can be complex and a lack of clarity about them can sometimes lead practitioners to assume incorrectly that no information can be shared. This section gives further information to help you understand and address the issues. It covers:

- what constitutes consent;
- whose consent should be sought; and
- when consent should not be sought.

#### **What constitutes consent?**

36. Consent must be '**informed**'. This means that the person giving consent needs to understand why information needs to be shared, what will be shared, who will see their information, the purpose to which it will be put and the implications of sharing that information.
37. Consent can be '**explicit**' or '**implicit**'. Obtaining explicit consent for information sharing is best practice and ideally should be obtained at the start of the involvement, when working with the individual or family to agree what support is required. It can be expressed either verbally or in writing, although written consent is preferable since that reduces the scope for subsequent dispute. Implicit consent can also be valid in many circumstances. Consent can legitimately be implied if the context is such that information sharing is intrinsic to the activity or service, and especially if that has been explained or agreed at the outset.

38. It is best practice to set out clearly your agency's policy on sharing information when the service is first accessed. The approach to securing consent should be transparent and respect the individual. Consent must not be secured through coercion or inferred from a lack of response to a request for consent.

39. If there is a significant change in the use to which the information will be put compared to that which had previously been explained, or a change in the relationship between the agency and the individual, consent should be sought again. Individuals have the right to withdraw consent at any time.

### **Whose consent should be sought – Children and Young People**

40. You may also need to consider whose consent should be sought. Where there is a duty of confidence, it is owed to the person who has provided the information on the understanding it is to be kept confidential. It is also owed to the person to whom the information relates, if different from the information provider. A child or young person, who has the capacity to understand and make their own decisions, may give (or refuse) consent to sharing.

41. Children aged 12 or over may generally be expected to have sufficient understanding. Younger children may also have sufficient understanding. As explained in paragraph 3.30, this is presumed in law for young people aged 16 and older. When assessing a child's understanding you should explain the issues to the child in a way that is suitable for their age, language and likely understanding. Where applicable, you should use their preferred mode of communication.

42. The following criteria should be considered in assessing whether a particular child or young person on a particular occasion has sufficient understanding to consent, or to refuse consent, to sharing of information about them:

*Can the child or young person understand the question being asked of them?  
Do they have a reasonable understanding of:*

- what information might be shared;
- the main reason or reasons for sharing the information; and
- the implications of sharing that information, and of not sharing it?

*Can they:*

- appreciate and consider the alternative courses of action open to them;
- weigh up one aspect of the situation against another;
- express a clear personal view on the matter, as distinct from repeating what someone else thinks they should do; and

- be reasonably consistent in their view on the matter, or are they constantly changing their mind?
43. Considerations about whether a child has sufficient understanding are often referred to as Fraser guidelines, although these were formulated with reference to contraception and contain specific considerations not included above.
44. In most cases, where a child cannot consent or where you have judged that they are not competent to consent, a person with parental responsibility should be asked to consent on behalf of the child. If a child or young person is judged not to have the capacity to make decisions, their views should still be sought as far as possible.
45. Where parental consent is required, the consent of one such person is sufficient. In situations where family members are in conflict you will need to consider carefully whose consent should be sought. If the parents are separated, the consent would usually be sought from the parent with whom the child resides. If a care order is in force, the local authority will share parental responsibility with parent(s) and practitioners should liaise with them about questions of consent.
46. If you judge a child or young person to be competent to give consent, then their consent or refusal to consent is the one to consider, even if a parent or carer disagrees. Where parental consent is not required, you should encourage the young person to discuss the issue with their parents. However, you should not withhold the service on the condition that they do so.
47. These issues can raise difficult dilemmas. Wherever appropriate you should try to work with all involved to reach an agreement or understanding of the information to be shared. You must always act in accordance with your professional code of practice where there is one and consider the safety and well-being of the child, even where that means overriding refusal to consent. You should seek advice from your manager or nominated advisor if you are unsure.

### **Whose consent should be sought – Adults**

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

49. The *Mental Capacity Act 2005 Code of Practice* defines the term ‘a person who lacks capacity’ as a person who lacks capacity to make a particular decision or take a particular action for themselves, at the time the decision or action needs to be taken.
50. A person who is suffering from a mental disorder or impairment does not necessarily lack the capacity to give or withhold their consent for information sharing. Equally, a person who would otherwise be competent may be temporarily incapable of giving valid consent due to factors such as extreme fatigue, drunkenness, shock, fear, severe pain or sedation. The fact that an individual has made a decision that appears to others to be irrational or unjustified should not be taken on its own as conclusive evidence that the individual lacks the mental capacity to make that decision. If, however, the decision is clearly contrary to previously expressed wishes, or is based on a misperception of reality, this may be indicative of a lack of capacity and further investigation will be required.
51. All decisions taken on behalf of a person who lacks capacity must be taken in their best interests. A judgement about best interests is not an attempt to determine what the person would have wanted. It is as objective a test as possible of what would be in the person’s actual best interests, taking into account all relevant factors. Factors to be addressed include:
- the person’s own wishes (where these can be ascertained); and
  - the views of those close to the person, especially close relatives, partners, carers, welfare attorneys, court-appointed deputies
  - or guardians.
52. The *Mental Capacity Act 2005 Code of Practice* provides information on points to consider when assessing a person’s capacity to make a specific decision and should be referred to for more detailed guidance.
53. If you consider that an adult may not have the capacity to give ‘informed consent’ for information sharing, you must follow the Code of Practice. If you judge that an individual does not have the capacity to make decisions, their views should still be sought as far as possible.

### **When consent should not be sought**

54. There will be some circumstances where you should not seek consent from the individual or their family, or inform them that the information will be shared. For example, if doing so would:

- place a person (the individual, family member, yourself or a third party) at increased risk of significant harm if a child, or serious harm if an adult; or
- prejudice the prevention, detection or prosecution of a serious crime; or
- lead to an unjustified delay in making enquiries about allegations of significant harm to a child, or serious harm to an adult.

55. You should not seek consent when you are required by law to share information through a statutory duty or court order. In these situations, subject to considerations set out above, you should inform the individual concerned that you are sharing the information, why you are doing so, and with whom.

### **Question 5: Is there sufficient public interest to share the information?**

56. Even where you do not have consent to share confidential information, you may lawfully share it if this can be justified in the public interest. Seeking consent should be the first option. However, where consent cannot be obtained or is refused, or where seeking it is inappropriate or unsafe as explained above, the question of whether there is a sufficient public interest must be judged by the practitioner on the facts of each case. **Therefore, where you have a concern about a person, you should not regard refusal of consent as necessarily precluding the sharing of confidential information.**

57. A public interest can arise in a wide range of circumstances, for example, to protect children from significant harm, protect adults from serious harm, promote the welfare of children or prevent crime and disorder. There are also public interests, which in some circumstances may weigh against sharing, including the public interest in maintaining public confidence in the confidentiality of certain services.

58. The key factors in deciding whether or not to share confidential information are necessity and proportionality, i.e. whether the proposed sharing is likely to make an effective contribution to preventing the risk and whether the public interest in sharing information overrides the interest in maintaining confidentiality. In making the decision you must weigh up what might happen if the information is shared against what might happen if it is not and make a decision based on professional judgement. The nature of the information to be shared is a factor in this decision making, particularly if it is sensitive information where the implications of sharing may be especially significant for the individual or for their relationship with the practitioner and the service. For more on the legal background see *Information Sharing: Further guidance on legal issues*.

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

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

60. You should discuss any concerns with the family and, where possible, seek their agreement to making referrals to children's social care **only where such discussion and agreement-seeking will not place a child at increased risk of significant harm, or any other individual at increased risk of serious harm, or lead to interference with any potential investigation.** The child's safety and well-being must be the overriding consideration in making any such decisions.

61. If you decide to share confidential information without consent, you should explain to the person that you intend to share the information and why, unless it is inappropriate or unsafe to do so.

#### Question 6: Are you sharing information appropriately and securely?

62. If you decide to share information, you should share it in a proper and timely way, act in accordance with the principles of the Data Protection Act 1998, and follow your organisation's policy and procedures. In relation to sharing information at the front-line, you will need to ensure that you:

- share only the information necessary for the purpose for which it is being shared;
- understand the limits of any consent given, especially if the information has been provided by a third party;
- distinguish clearly between fact and opinion;
- share the information only with the person or people who need to know;
- check that the information is accurate and up-to-date;
- share it in a secure way, for example, confirm the identity of the person you are talking to; ensure that a conversation or phone call cannot be overheard; use secure email; ensure that the intended person will be on hand to receive a fax;
- establish with the recipient whether they intend to pass it on to other people, and ensure they understand the limits of any consent that has been given; and

- inform the person to whom the information relates and, if different, any other person who provided the information, if you have not done so already and it is safe to do so.
63. In deciding what information to share, you also need to consider the safety of other parties, such as yourself, other practitioners and members of the public. If the information you want to share allows another party to be identified, for example, from details in the information itself or as the only possible source of the information, you need to consider if sharing the information would be reasonable in all circumstances. Could your purpose be met by only sharing information that would not put that person's safety at risk?

### **Question 7: Have you properly recorded your information sharing decision?**

64. You should record your decision and the reasons for it, whether or not you decide to share information. If the decision is to share, you should record what information was shared and with whom.
65. You should work within your agency's arrangements for recording information and within any local information sharing procedures in place. These arrangements and procedures must be in accordance with the Data Protection Act 1998 – the key provisions of which are summarised in *Information Sharing: Further guidance on legal issues*.

### **Legislative Framework**

66. This complex area of operational practice is governed by:
- **The Common Law Duty of Confidence** whereby it is reasonably expected that personal information shared with another remains confidential. Personal information about children and families that is held by professional agencies should not be disclosed without the consent of the subject.
  - It is however not absolute, whereby information can justifiably be disclosed in the public interest to prevent harm to others.

### **Human Rights Act 1998**

67. This legislation, in recognising an individual's right to have private and family life respected, also recognises that exceptions may apply where disclosure of information without a consent is justified:

- The right to a private life can be legitimately interfered with where it is in accordance with the law and is necessary, for example, for the prevention of crime or disorder, for public safety, for the protection of health or morals, or for the protection of the rights and freedoms of others. You need to consider the pressing social need and whether sharing the information is a proportionate response to this need and whether these considerations can override the individual's right to privacy. If a child or young person is at risk of significant harm, or an adult is at risk of serious harm, or sharing is necessary to prevent crime or disorder, interference with the individual's right may be justified under Article 8.

68. Though in all cases disclosure has to be proportionate to the need to protect.

### **Data Protection Act 1998**

69. This specifically regulates the handling of personal data held about an individual on computer or a manual filing system. It requires information to be:

- Obtained and processed fairly and lawfully.
- Processed for limited purposes.
- Accurate and relevant.
- Held for no longer than necessary.
- processed in accordance with the data subject's rights under the DPA;
- Kept securely and only disclosed if specific conditions are met.

70. Legitimate reasons for sharing personal information would include circumstances in which the individual to whom it relates giving consent. It extends however where it is necessary to protect the vital interests of the data subject, or in exercising a statutory function in the public interest or it is demonstrably necessary in the legitimate interests pursued by the person sharing the information.

**71. This condition applies to most situations where a practitioner shares information to safeguard a child's welfare.**

72. If information shared is 'sensitive personal data' e.g. racial or ethnic origins, political opinions, religious beliefs, trade union membership, physical or mental health condition, sexual life or criminal offences, one of the following additional conditions of Schedule 3 must be met:

- The subject has explicitly consented.
- It is necessary to protect her/his vital interests or those of another person where the subjects consent cannot be give or is unreasonably withheld or cannot reasonably be expected to be obtained.

- It is necessary to establish, exercise or defend legal rights.
- It is necessary for the exercise or any statutory function and
- It is in the substantial public interest and necessary to prevent or detect an unlawful act and obtaining express consent would prejudice those purposes.

73. Defence of a child's 'legal rights' under the Human Rights Act 1998 or exercise of a statutory function in connection with a S17 assessment or a S47 enquiry may offer justification for information sharing.

74. A mechanism for operating a framework to underpin appropriate information-sharing in health care and social care authorities is located within the **Caldicott Standards**. Each health service and local authority have their own Caldicott Guardian who can be contacted for advice.

### **The Children Act 1989**

75. Section 47 of the Children Act 1989 places a duty on local authorities to make enquiries where they have reasonable cause to suspect that a child in their area may be at risk of suffering significant harm. Section 47 states that unless in all the circumstances it would be unreasonable for them to do so, the following authorities must assist a local authority with these enquiries if requested, in particular by providing relevant information:

- any local authority;
- any local education authority;
- any housing authority;
- any health authority;
- any person authorised by the Secretary of State.

76. A local authority may also request help from those listed above in connection with its functions under Part 3 of the Act. Part 3 of the Act, which comprises of sections 17-30, allows for local authorities to provide various types of support for children and families. In particular, section 17 places a general duty on local authorities to provide services for children in need in their area. Section 27 enables the authority to request the help of one of those listed above where it appears that such an authority could, by taking any specified action, help in the exercise of any of their functions under Part 3 of the Act. Authorities are required to co-operate with a request for help so far as it is compatible with their own statutory duties and does not unduly prejudice the discharge of any of their functions.

**In practice, when required to help under sections 47 or 17 of the Act, authorities may be approached by social services and asked to:**

- **provide information about a child, young person or their family where there are concerns about a child's well-being, or to contribute to an assessment under section 17 or a child protection enquiry;**
- **undertake specific types of assessments as part of a core assessment or to provide a service for a child in need;**
- **provide a report and attend a child protection case conference.**

77. The Act does not require information to be shared in breach of confidence, but an authority should not refuse a request without considering the relative risks of sharing information, if necessary without consent, against the potential risk to a child if information is not shared.

### **The Children Act 2004**

78. Section 10 of the Act places a duty on each children's services authority to make arrangements to promote co-operation between itself and relevant partner agencies to improve the well-being of children in their area in relation to:

- Physical and mental health, and emotional well-being;
- Protection from harm and neglect;
- Education, training and recreation;
- Making a positive contribution to society;
- Social and economic well-being.

79. The relevant partners must co-operate with the local authority to make arrangements to improve the well-being of children. The relevant partners are:

- district councils;
- the police;
- the Probation Service;
- youth offending teams (YOTs);
- strategic health authorities and primary care trusts;
- Connexions;
- the Learning and Skills Council.

**This statutory guidance for section 10 of the Act states good information sharing is key to successful collaborative working and arrangements under this section should ensure information is shared for strategic planning purposes and to support effective service delivery.**

## **Education Act 2002**

80. The duty laid out in section 11 of the Children Act 2004 mirrors the duty imposed by section 175 of the Education Act 2002 on LEAs and the governing bodies of both maintained schools and further education institutions. This duty is to make arrangements to carry out their functions with a view to safeguarding and promoting the welfare of children follows the guidance in *Safeguarding Children and Safer Recruitment in Education* (DfES 2006).
81. The guidance applies to proprietors of independent schools by virtue of section 157 of the Education Act 2002 and the Education (Independent Schools Standards) Regulations 2003.