

INFORMATION SHARING AND CONFIDENTIALITY POLICY

1.	SUMMARY	The Information Sharing and Confidentiality policy sets out the requirements placed on all Ormiston Families practitioners and staff when sharing service users' information within the organisation and between Ormiston Families and partner agencies.			
2.	RESPONSIBLE PERSON	Head of Quality and Governance			
3.	ACCOUNTABLE DIRECTOR	Operations Director			
4.	APPLIES TO:	All practitioners and staff			
5.	GROUPS / INDIVIDUALS WHO HAVE OVERSEEN THE DEVELOPMENT OF THIS POLICY:	Data Privacy Officer, Ormiston Families Operations Director, Ormiston Families Head of Quality and Governance, Ormiston Families House Consultant, Data Protection People			
6.	GROUPS WHICH WERE CONSULTED AND HAVE GIVEN APPROVAL:	None.			
7.	EQUALITY IMPACT ANALYSIS COMPLETED:	Policy Screened	None	Template Completed	None
8.	RATIFYING COMMITTEE(S) & DATE OF FINAL APPROVAL:	Board of Trustees, 2 nd December 2022			
9:	VERSION:	v.2.3 January 2023			
10:	AVAILABLE ON:	Hive	X	Website	
11.	RELATED DOCUMENTS	Induction policy Safeguarding Children, Young People and Adults 'at risk' policy			
12.	DISSEMINATED TO:	All practitioners and staff			

13.	DATE OF IMPLEMENTATION:	01/02/23
14.	DATE OF NEXT FORMAL REVIEW:	01/02/24

DOCUMENT CONTROL

Date	Version	Action	Amendments	Approved
	1.0	Policy first implemented	N/A	
March 2021	2.0	Policy reviewed	Substantial amendments made to comply with legislative requirements.	-
March 2022	2.1	Policy reviewed	Inclusion of references to statutory documents. Updated guidance on when to share privacy information.	-
November 2022	2.2	Policy reviewed	Restriction and instruction on data sharing and transfer in accordance with s.4.17 of the draft Data Protection Compliance Management policy.	02/12/23
January 2023	2.3	Policy reviewed	Revised date of publication and changes in job titles and online training. Change to appendices.	27/01/23

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1. Introduction

- 1.1 The Information Sharing and Confidentiality policy sets out the requirements placed on all Ormiston Families' practitioners and staff when sharing service users' information within the organisation and between Ormiston Families and partner agencies.

2. Policy Statement:

- 2.1 Sharing information is vital for early intervention to ensure that service users with additional needs receive the services they require.
- 2.2 It is also essential to protect children, young people and adults from suffering or likely to suffer serious or Significant Harm.

3. Scope of this policy:

- 3.1 Practitioners and staff are sometimes uncertain about when they can share information lawfully. The Information Sharing and Confidentiality policy ensures that they:
- understand and apply good practice in sharing information at an early stage as part of preventative work;
 - are clear that information can be shared where they judge that an adult or child is suffering or likely to suffer serious or Significant Harm; and
 - understand what information is and is not confidential, and the need in some circumstances to make a judgement about whether confidential information can be shared, in the public interest, without consent.

4. Who this policy applies to:

- 4.1 The Information Sharing and Confidentiality policy applies to all practitioners and staff providing services to service users, their families and/or carers.

5. Definitions used in this policy:

- 5.1 **'Accurate'**: 'Information should be accurate, up-to-date and should clearly distinguish between fact and opinion. If the information is historical then this should be explained.' (Information Sharing Advice for practitioners providing safeguarding service to children, young people, parents and carers' July 2018.9)
- 5.2 **'Adequate'**: 'Information should be adequate for its purpose. Information should be of the right quality to ensure that it can be understood and relied upon.' (Information Sharing Advice for practitioners providing safeguarding service to children, young people, parents and carers' July 2018.9)
- 5.3 **Confidentiality and the Public Interest**: Not all information is confidential. Confidential information is 'personal information of a private or sensitive nature' which is not public knowledge and which has been shared in a relationship where the person giving the information understood that it would not be shared with others (Information Sharing: Guidance for practitioners and managers, Department of Children, Schools and Families, and Communities and Local Government, 2008, s.3.12)

'Confidence is only breached where the sharing of confidential information is not authorised by the person who provided it or 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 explicit consent to the sharing.' (Information Sharing: Guidance for practitioners and managers, Department of Children, Schools and Families, and Communities and Local Government, 2008, s.3.14).

Even where sharing of confidential information is not authorised by an individual, it may lawfully be shared if this can be justified in the public interest. In such circumstances, seeking consent from the individual involved should be the first option, if appropriate. However, where consent cannot be obtained to the sharing of the information or is refused, or where seeking it is likely to undermine the prevention, detection or prosecution of a crime, 'the question of whether there is a sufficient public interest must be judged by the practitioner on the facts of each case. Therefore, where a practitioner has a concern about a person, he or she should not regard refusal of consent as necessarily precluding the sharing of confidential information.' (Information Sharing: Guidance for practitioners and managers, Department of Children, Schools and Families, and Communities and Local Government, 2008, s.3.38).

'A public interest can arise in a wide range of circumstances, e.g., to protect children or other people from harm, to promote the welfare of children or to 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. The key factor in deciding whether or not to share confidential information is proportionality, i.e., whether the proposed sharing is a response in proportion to the need to protect the public interest in question. In making the decision, the practitioner 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 a reasonable judgement.' (Information Sharing and Confidentiality, Norfolk Safeguarding Children Partnership, [Information Sharing and Confidentiality](#), 2022, s.6.5).

'It is not possible to give guidance to cover every circumstance in which sharing of confidential information without consent will be justified. However, it is possible to identify some circumstances in which sharing confidential information without consent will normally be justified in the public interest. These are:

- when there is evidence that the child is suffering or likely to suffer Significant Harm; or
- where there is reasonable cause to believe that a child may be suffering or likely to suffer Significant Harm; or
- to prevent Significant Harm arising to children or serious harm to adults, including through the prevention, detection and prosecution of serious crime, i.e. any crime which causes or is likely to cause Significant Harm to a child or serious harm to an adult.'

(Information Sharing and Confidentiality, Norfolk Safeguarding Children Partnership, [Information Sharing and Confidentiality](#), 2022, s.6.6).

- 5.4 **Privacy Notice:** A privacy notice is a public document from an organisation that explains how that organisation processes personal data and how it applies data protection principles. If you are collecting data directly from someone, you have to provide them with your privacy notice at the moment you do so.
- 5.5 **Necessary and proportionate:** 'When taking decisions about what information to share, you should consider how much information you need to release. The Data Protection Act 2018 requires you to consider the impact of disclosing information on the information subject and any third parties. Any information shared must be proportionate to the need and level of risk.' (Information Sharing Advice for practitioners providing safeguarding service to children, young people, parents and carers' July 2018.9)
- 5.6 **'Relevant':** 'Only information that is relevant to the purposes should be shared with those who need it. This allows others to do their job effectively and make sound decisions.' (Information Sharing Advice for practitioners providing safeguarding service to children, young people, parents and carers' July 2018.9).
- 5.7 **'Record':** 'Information sharing decisions should be recorded whether or not the decision is taken to share. If the decision is to share, reasons should be cited including what information has been shared and with whom'. 'If the decision is not to share, it is good practice to record the reasons for this decision and discuss them with the requester.' (Information Sharing Advice for practitioners providing safeguarding service to children, young people, parents and carers' July 2018.9)
- 5.8 **'Secure':** 'Wherever possible, information should be shared in an appropriate, secure way.' (Information Sharing Advice for practitioners providing safeguarding service to children, young people, parents and carers' July 2018.9)
- 5.9 **'Significant Harm':** Significant harm is defined by Section 47(1) of the Children Act 1989 as the threshold that justifies compulsory intervention in family life in the best interests of children. There are no absolute criteria on which to rely when judging what constitutes significant harm. Sometimes a single violent episode may constitute significant harm but more often it is an accumulation of significant events, both acute and longstanding, which interrupt, damage or change the child's development. Physical abuse, sexual abuse, emotional abuse and neglect are all categories of significant harm.

6. Roles and responsibilities:

- 6.1 When service users and their families first access our services and we collect their personal data from them, practitioners and staff have a responsibility to explain openly and honestly 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.
- 6.2 Practitioners and staff have a responsibility to adhere to the Department of Education's (July 2018) 'Seven Golden Rules for Information Sharing'.

As such, practitioners and staff have a responsibility to:

- remember that the Data Protection Act 2018, the UK General Data Protection Regulation (UK GDPR) and human rights laws are not barriers to justified

information sharing but frameworks for ensuring that personal information about living individuals is shared appropriately;

- seek advice from other practitioners if they are in any doubt about sharing the information concerned, without disclosing the identity of the individual where possible;
- share with informed consent where appropriate and, where possible, respect the wishes of those who do not consent to share confidential information. Practitioners and staff may still share information without consent if, in their judgement, there is good reason to do so, such as where a service user's safety may be at risk. Practitioners and staff will need to base their judgment on the facts of the case;
- base information sharing decisions on considerations of the safety and wellbeing of the service user and any others who may be affected by their actions;
- ensure that the information shared is necessary, proportionate and relevant for the purpose for which it is shared, 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 any decisions to share information or not, and the reasons for it. If information is shared, then a record of what has been shared, with whom and for what purpose must be made.

6.3 When deciding whether there is a need to share information, practitioners and staff have a responsibility to consider their legal obligations including:

- whether the information is confidential; and
- if it is confidential, whether there is a public interest sufficient to justify sharing the information.

7. Information sharing:

7.1 When service users and their families first access our services and we collect their personal data from them, practitioners and staff must explain openly and honestly, why, what, how and with whom information will, or could be shared with reference to the appropriate privacy notice for their service taking into account any additional accessibility needs of the individual.

7.2. If Ormiston Families obtains personal data from a source other than the service user it relates to, e.g. through referral from a third-party, practitioners and staff must provide them with the privacy information identified in s. 7.1 above:

- within 1 month of obtaining the personal data;
- if we plan to communicate with the individual, at the latest, when the first communication takes place; or
- if we plan to disclose the data to someone else, at the latest, when the data is disclosed.

This process is summarised in Appendix A: When to provide privacy information.

7.3 As a general principle, practitioners and staff will only share information with the consent of the subject of the information unless there is an alternate lawful basis for doing so as recorded in their service's privacy notice.

7.4 In some circumstances, however, it will not be appropriate to seek consent before sharing information with others and/or information can be shared where consent has been refused.

7.5 'Working Together to Safeguard Children' (July 2018.19, s.27) states:
'The Data Protection Act 2018 and General Data Protection Regulations (GDPR) do not prevent the sharing of information for the purposes of keeping children safe. Fears about sharing information must not be allowed to stand in the way of the need to promote the welfare and protect the safety of children.'

7.6 The Data Protection Act 2018 contains 'safeguarding of children and individuals at risk' as a processing condition that allows staff to share information without obtaining consent from an individual, their family or representative.

This means that there is no requirement to obtain consent from an individual, their family or representative when all of the following apply:

We need to:

- protect an individual from neglect or physical, mental or emotional harm, or
- protect the physical, mental or emotional well-being of an individual,

The individual is:

- aged under 18, or
- aged 18 or over and 'at risk',

We have to proceed without consent for one of the reasons listed below:

- in the circumstances, consent to the processing cannot be given;
- in the circumstances, we cannot reasonably be expected to obtain consent;
- we must proceed without consent because obtaining consent would prejudice the provision of the protection mentioned above

An individual aged 18 or over is "at risk" if practitioners or staff have reasonable cause to suspect that the individual:

- has needs for care and support,
- is experiencing, or at risk of, neglect or physical, mental or emotional harm, and
- as a result of those needs is unable to protect themselves against the neglect or harm or the risk of it.

7.8 Practitioners and staff must also share information when they are in situations where there is a statutory duty or Court Order requiring the information to be shared. In such situations, information should be shared even if consent has not been given. However, wherever possible, the individual concerned should be informed about the information to be shared, the reasons and to whom it will be disclosed.

7.9 Practitioners and staff must always consider the safety and welfare of a child when making decisions on whether to share information about the child. Where there is concern

that the child may be suffering or likely to suffer Significant Harm, the child's safety and welfare must be the overriding consideration.

- 7.10 Practitioners and staff should, where possible, respect the wishes of service users or families who do not consent to share confidential information. However, they may still share information if in their judgement there is sufficient need to override that lack of consent (cf. s.7.3 – 7.6 above).
- 7.11 Practitioners and staff should seek advice from their line-manager or a Designated Safeguarding Lead (DSL) where they are in doubt, especially where the doubt relates to a concern about possible Significant Harm to a child or serious harm to others.

The Designated Safeguarding Leads are:

Role:	Name:	Contact details:
DSL, Caldicott Guardian and Operations Director	Mark Proctor	07500 045 170
DSL Operations Manager	Alison Williams	07540 119 527
DSL Operations Manager	Amanda Newman	07875 587 384
DSL Operations Manager	John Merralls	07773 595 155
Head of Quality & Governance	Justin Claxton	07867 384671

- 7.12 The Operations Director also performs the role of Ormiston Families' 'Caldicott Guardian'.

The role of the Caldicott Guardian is to ensure that service user's personal information is used legally, ethically and appropriately, and that confidentiality is maintained.

The Caldicott Guardian also has oversight of all Information Sharing Agreements between Ormiston Families and partner organisations.

No data sharing or disclosure is permitted to occur without a suitable legally enforceable agreement satisfying the requirements for such agreements as set out in the Data Protection Legislation being in place. Data sharing agreements must be approved by the Caldicott Guardian and the Privacy Officer who will maintain a register of all such agreements.

Appropriate risk assessments will be undertaken prior to any data sharing taking place on those with whom we intend to share personal data.

- 7.13 Practitioners and staff should seek advice from the Caldicott Guardian if they have any concerns regarding the confidentiality of personal information or information sharing with partner agencies, including requests for the disclosure of information for research or to the police.
- 7.14 Where they are in doubt over a decision, practitioners and staff should consult the 'Key Principles for Information Sharing' flowchart reproduced in Appendix B.
- 7.15 Practitioners and staff should always record the reasons for their decision in a service user's care record – whether it is to share information or not.
- 7.16 Practitioners and staff should ensure that the information they share is accurate and up-to-date, necessary for the purpose for which they are sharing it, shared only with those people who need to see it, and shared securely.

- 7.17 Practitioners and staff will treat case records relating to safeguarding concerns as 'special category personal data' (Working Together to Safeguard Children 2018, section 28).
- 7.18 Practitioners and staff must ensure that 'special category personal data' is kept and shared securely.
- 7.19 Practitioners and staff will ensure that paper records are:
- kept in folders with all documents firmly affixed to prevent their loss;
 - stored in a locked cabinet with controlled access;
 - accessed only as necessary to perform their required duties;
 - not left unattended when not in their normal location.
- 7.20 Practitioners and staff will ensure that electronic records are:
- protected by appropriate security measures including usernames, passwords and encryption in line with the appropriate data protection and information asset policies.

If electronic records are shared externally with partner organisations, they will be transferred using Egress encryption software.

8. Training:

- 8.1 To ensure the Information Sharing and Confidentiality policy is implemented all practitioners and staff will undertake:
- 'GDPR UK: Advanced' online training during their induction;
 - a review of the Information Sharing and Confidentiality policy with their line-manager during their induction;
 - familiarisation and review of the service privacy notice with a GDPR Champion during their induction;
 - Egress email encryption training during their induction period.

9. Dissemination and implementation:

- 9.1 The Information Sharing and Confidentiality policy will be disseminated to:
- all managers and GDPR Champions through email by the Head of Quality and Governance;
 - all staff through the intranet's Newsfeed and upload to the Data Protection and Information Assets and Safeguarding policies pages by the Head of Quality and Governance ;
 - the Data Protection People's House Consultant.
- 9.2 Further information and training on information sharing, Egress and encryption will be disseminated to all staff through the intranet's GDPR page.

10. Monitoring:

10.1 Compliance with the Information Sharing and Confidentiality policy will be monitored quarterly by the:

- Head of Quality and Governance at the Safeguarding Advisory Group;
- Head of Quality and Governance at Service Monitoring Challenge events.

11. Review:

11.1 The Information Sharing policy will be reviewed annually from February 2023.

11.2 The date of the next review will be February 2024.

12. References

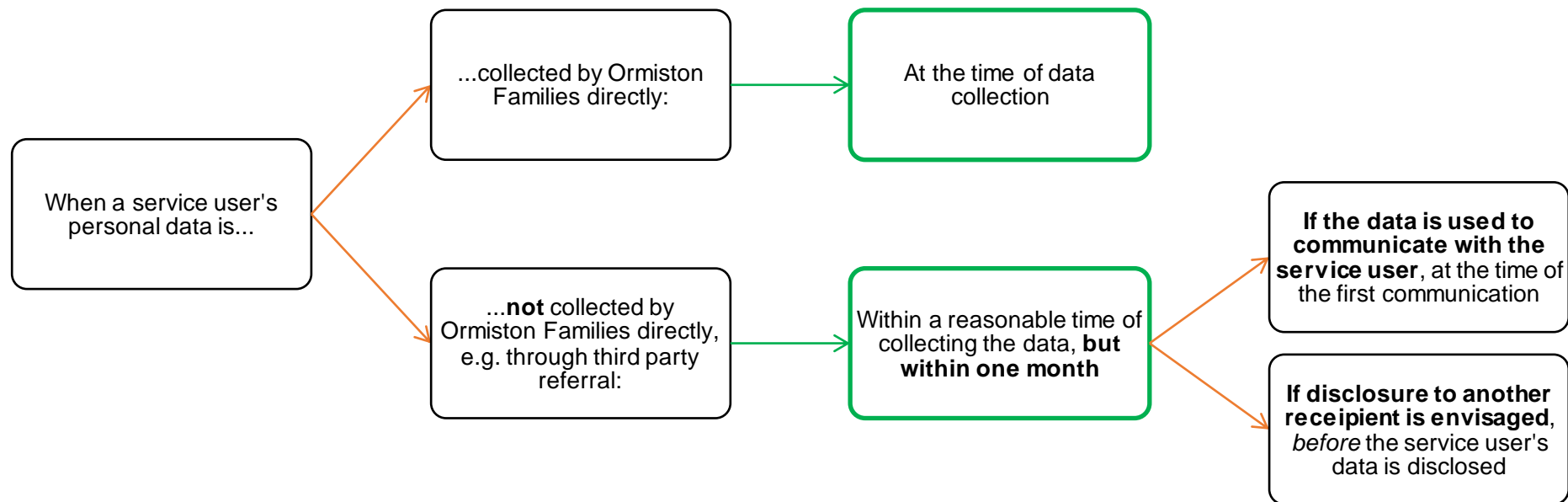
12.1 Department for Education (July 2018) [Information Sharing: advice for safeguarding practitioners providing safeguarding services to children, young people, parents and carers](#), last accessed 18th November 2022.

12.2 Norfolk Safeguarding Children Partnership [Information Sharing and Confidentiality](#), last accessed 18th November 2022.

12.3 Department for Education (July 2018) [Working Together to Safeguard Children: a guide to inter-agency working to safeguard and promote the welfare of children](#).

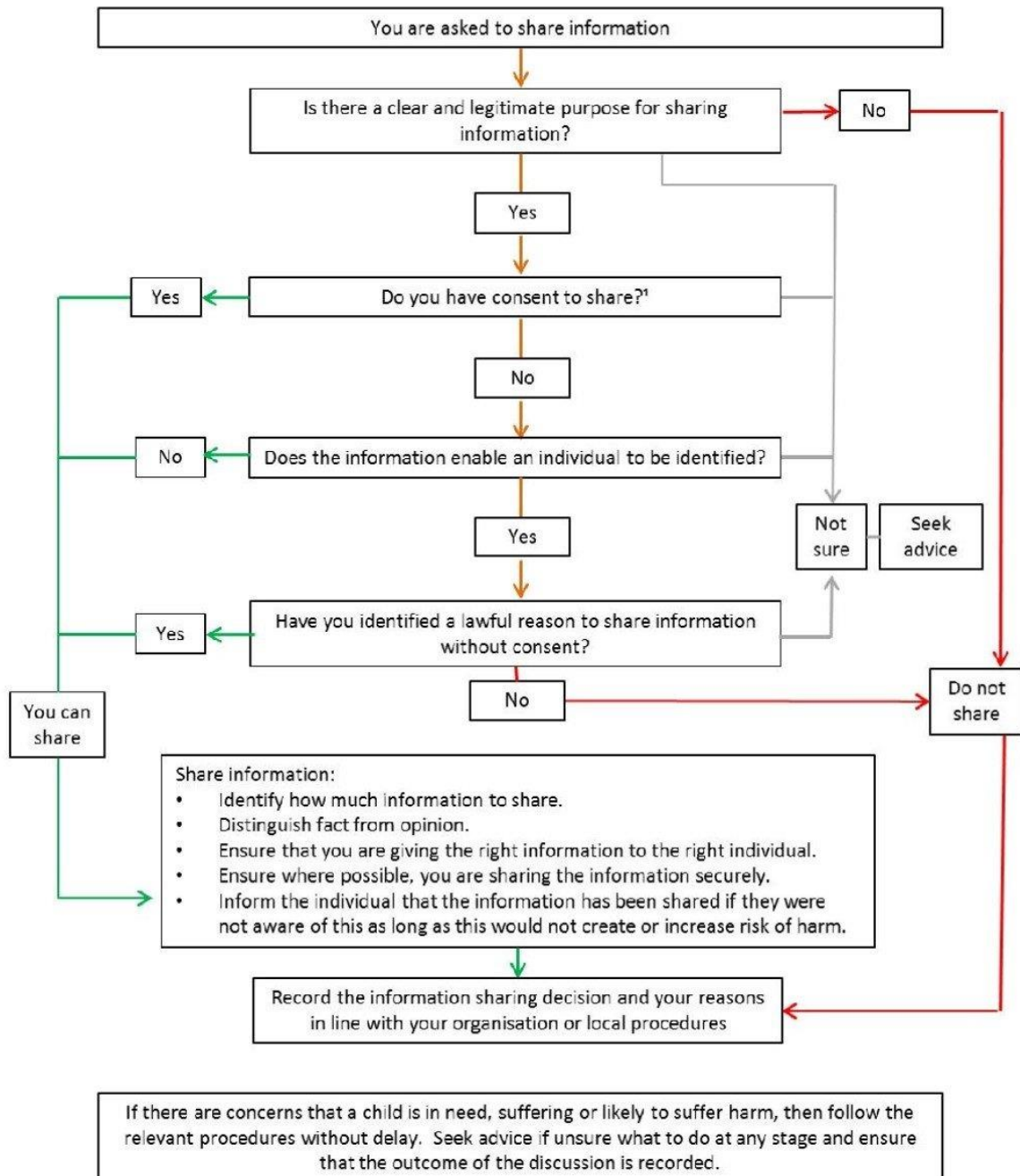
12.4 Department of Children, Schools and Families, and Communities and Local Government, (2008) ['Information Sharing: Guidance for practitioners and managers'](#) (archived)

Appendix A: When to provide privacy information



Appendix B: Key Principles for Information Sharing derived from ‘Information Sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers’ (July 2018).

Flowchart of when and how to share information



1. Consent must be unambiguous, freely given and may be withdrawn at any time