



Consent and Information Sharing Briefing

November 2020

- All families need help from time to time to bring up their children. The majority will seek this from relatives, friends and community groups, but sometimes families need extra help from outside agencies, including children's services:
 - This briefing explores agencies responsibility for information sharing and consent in these circumstances.

Being Offered or Seeking Help

- Local organisations and agencies should have in place effective ways to identify emerging problems and potential unmet needs of individual children and families (Working Together 2018)
- Parents are more likely to seek support and engage with plans for change if they can access this from someone they know, trust and believe.

Information sharing

- Effective sharing of information between practitioners and local organisations and agencies is essential for early identification of need, assessment and service provision to keep children safe. Serious case reviews (SCRs) have highlighted that missed opportunities to record, understand the significance of and share information in a timely manner can have severe consequences for the safety and welfare of children. (Working Together 2018)

All decisions to share or not share information should always be recorded with the rationale of what was/ was not shared with who, how, and when.

Effective communication

- Effective information sharing relies upon the successful passing of information from one person to another. To be successful there needs to be effective communication to ensure that whatever one person wants to say to someone, is done in a way that it can be clearly understood by the person receiving it, otherwise the very purpose of the communication would be defeated.
- Consider carefully the method you chose to use for effective communication, what method will be most effective to ensure you know the person has:
 - Received the information you wish to share?
 - Understands the purpose you have shared the information for?
 - Knows what you expect to happen once the information has been shared?
 - Is able to communicate back to you their understanding?
 - How this factors in to any existing information / knowledge they have?
 - What the agreed outcome will be of this communication?

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GDPR & Information sharing

- The General Data Protection Regulations (GDPR) - implemented through the Data Protection Act 2018 states that 'legal obligation' and 'public task' (as defined in the GDPR) are relied on as the primary basis for processing information to establish whether or not there is a need to safeguard the welfare of a child. This means that, whilst families will be informed when personal data is being shared or processed, their consent will not be required.

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Justified Information sharing

- You may share information without consent if, in your judgement, there is a **lawful basis** to do so. Base your judgement on the facts of the case and be clear of the basis upon which you are doing so.
- Base your information sharing decisions on considerations of the safety and well-being of the individual and others who may be affected by their actions.
- Ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those individuals who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely

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You must have a Lawful basis to share personal data

- Working Together To Safeguard Children 2018 guidance focuses on the core legal requirements, making it clear what individuals, organisations and agencies must and should do to keep children safe. In doing so, it seeks to emphasise that effective safeguarding is achieved by putting children at the centre of the system and by every individual and agency playing their full part (p8)
- **The 2017 Children and Social Work Act** sets out how agencies must work together by placing new duties on the police, clinical commissioning groups and the local authority to make arrangements to work together and with other partners locally to safeguard and promote the welfare of all children in their area
- **Section 11 of the Children Act 2004** places duties on a range of organisations and individuals to ensure their functions, and any services that they contract out to others, are discharged having regard to the need to **safeguard and promote the welfare of children**

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Proactive Information Sharing

- Practitioners should be proactive in sharing information as early as possible to help identify, assess and respond to risks or concerns about the safety and welfare of children, whether this is when problems are first emerging, or where a child is already known to local authority children's social care (e.g. they are being supported as a child in need or have a child protection plan). Practitioners should be alert to sharing important information about any adults with whom that child has contact, which may impact the child's safety or welfare. (Working Together 2018)

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Seeking consent for information sharing?

- consent should only be sought when the person has a real choice of whether to say 'yes' or 'no'. If despite what the person says you are going to do it anyway then there is little point in seeking their consent.
- **Rule 1** – If the authority can rely upon a legal obligation or vital interests condition then consent is not needed.
- **Rule 2** - Only seek consent when the person has a choice whether for example to say 'yes' or 'no' and only seek consent when you will honour and abide by their decision.

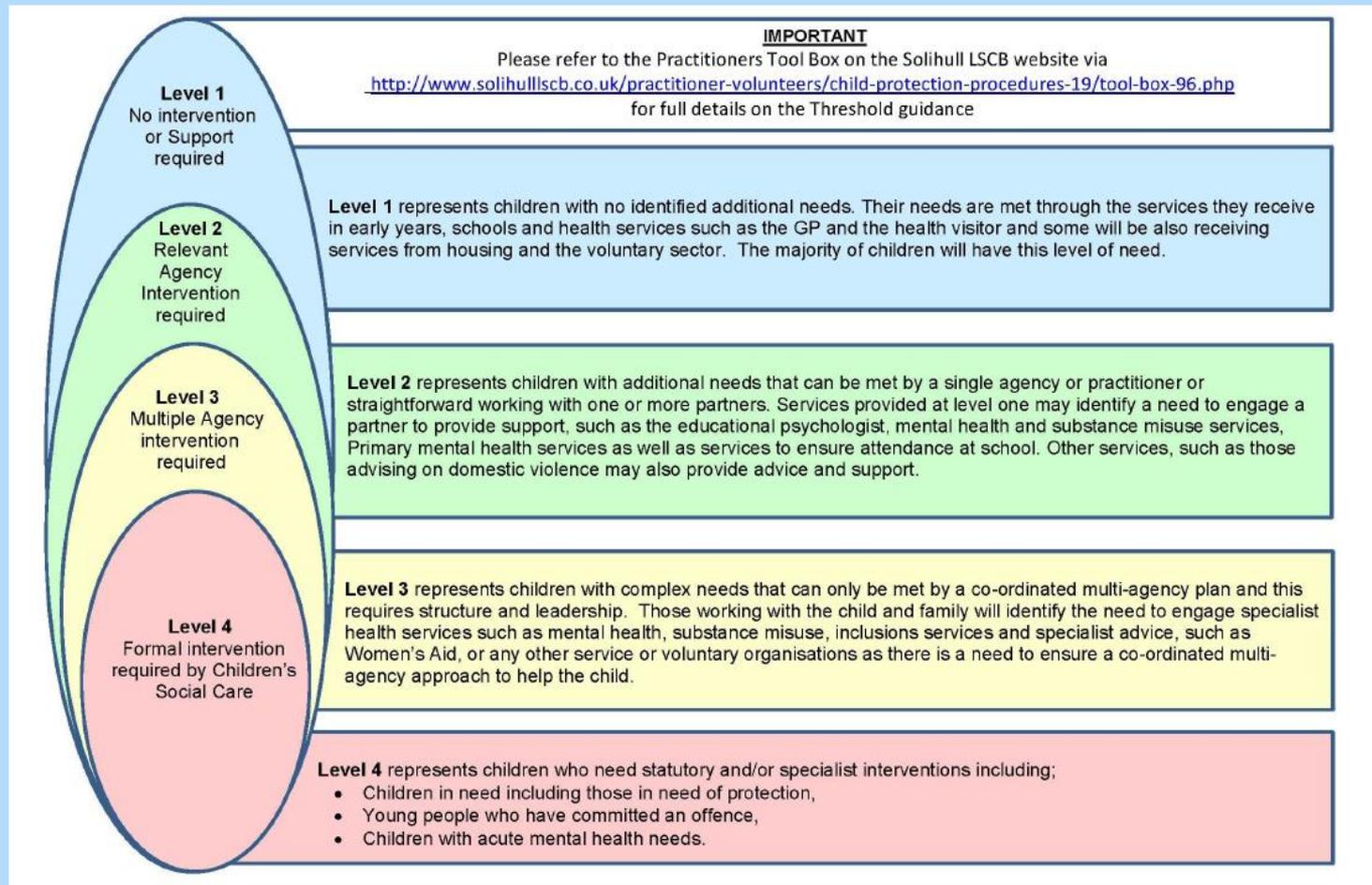
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Informing a family that you are sharing information

- If you feel a child is suffering or likely to suffer **significant harm**, there may be some circumstances where you should not inform a family that you have shared information as it may increase the risk to the child; you can seek advice from the referral and advice officers about this.
- However in the majority of circumstances it is important that you do explain to the family what personal information you will be sharing, with who, why & how.
- Being clear about this will help if after sharing information a recommendation is made for a referral for extra support, as at this point in time the family will need to consent to be involved with that intervention, unless a child is suffering or likely to suffer **significant harm**

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Understanding Thresholds for intervention



This guidance is produced by the Local Safeguarding Children's Partnership and sets out the local criteria for action in a way that is transparent, accessible and easily understood. The Full document provides practical examples to help inform your professional judgement.

Consent for intervention

- While the legal duty to safeguard and promote the wellbeing of Children supports agencies to share information it does not support intervention into family life without consent, unless a child is suffering or likely to suffer **significant harm** (Section 47 of the Children Act 1989).

Consent is needed if:

- A referral is being made to any organisations for the delivery of an intervention e.g.:
- The needs identified can not be met by existing services and further support is needed from Children's Services through the level 3 family support service.
- The needs of the child meet the criteria for a Child in Need under Section 17 of the Children Act 1989
- **Remember, consent is not being sought for information sharing, it is being sought because the family need to agree for other services to intervene in their family life unless a child is suffering or likely to suffer Significant Harm.**

The need for co-ordinated help

- When children and families need extra support, they should be able to get early help in a co-ordinated way, through agencies that already know them without necessarily having to be referred to children's services.
- Practitioners should be able to discuss concerns they may have about a child and family with a social worker in the local authority. (WT2018 p14)
- This information sharing can be done by calling the referral and advice officers on 0121 788 4300 proportionate lawful information sharing does not require consent, unless an intervention is being sought.

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For an early help assessment to be effective

- It should be undertaken with the agreement of the child and their parents or carers, involving the child and family as well as all the practitioners who are working with them. It should take account of the child's wishes and feelings wherever possible, their age, family circumstances and the wider community context in which they are living.
- Families do not have to have an early help assessment if they don't want to be assessed and they don't have to accept the help offered after an early help assessment, but if they trust and know the professionals they are more likely to consent & engage.

Being transparent

- If professionals working with a child and family feel that the child is likely to suffer **significant harm** if the family do not agree to an early help or child in need assessment and plan this should be clearly explained to the family.
- Providing parents with plausible mechanisms of understanding harm and risk can help improve the trust and engagement.

Harm- Significant Harm

- The Children Act 1989 specifies harm as the “ill-treatment or the impairment of health or development”
- However it introduced **Significant Harm** as the threshold that justifies compulsory intervention in family life in the best interests of children.
- Unfortunately there is no statutory definition of significant harm.

Further information & references

- Early help guidance and procedures
<https://solihullscp.co.uk/practitioner-volunteers/early-help-21.php>
- Threshold guidance
<https://solihullscp.co.uk/media/upload/fck/file/Tools/May%202020%20Threshold%20Doc%20with%20links.pdf>
- Information sharing guidance & procedures
<https://solihullscp.co.uk/practitioner-volunteers/working-together-guidance-18/information-sharing-105.php>
- Working Together 2018
[https://solihullscp.co.uk/media/upload/fck/file/publications/Working Together to Safeguard Children - Guide%202018.pdf](https://solihullscp.co.uk/media/upload/fck/file/publications/Working%20Together%20to%20Safeguard%20Children%20-%20Guide%202018.pdf)
- Family Rights Group- Family Support Advice Sheet
https://www.frg.org.uk/images/Advice_Sheets/4-family-support-services.pdf