

Southampton Children and Young People's Trust Information Sharing Protocol to  
Safeguard and Promote the Welfare of Children and Young People

DATE: SEPTEMBER 2010  
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TABLE OF CONTENTS

- 1. List of signatory agencies and organisations..... 3
- 2. Introduction..... 5
- 3. Agreement of Signatories to the Protocol..... 5
- 4. General Purpose of the Protocol ..... 6
- 5. Who is the Protocol for? ..... 6
- 6. Security of Information..... 6
- 7. Commissioned Services ..... 7
- 8. Retention of data ..... 7
- 9. Accuracy of Information..... 7
- 10, Data Controller..... 7
- 11. Secondary Disclosure..... 7
- 12. Depersonalised and Aggregated Data..... 8
- 13. Disputes between agencies ..... 8
- 14. Complaints..... 9
- 15. Indemnity ..... 9
- 16. Links to other Protocols, Policies and Procedures..... 9
- 17. Review of this Protocol ..... 9
- 18. Agreement..... 10
- 19. Appendix 1: Related Legislation ..... 12
- 20. Appendix 2 : Flowchart of key principles for information sharing ..... 13
- 21. Appendix 3: Flowchart for disputes between agencies..... 14

## 1. List of signatory agencies and organisations

Organisation	Date	Name	Signature
Southampton City Council	29.09.2010	Cllr Paul Holmes, Cabinet Member for Children's Services and Learning	
Southampton City Council	29.09.2010	Clive Webster, Director of Children's Services and Learning	
Hampshire Constabulary	29.09.10	Chief Supt Matthew Greening	
Southampton Primary Care Trust	29.09.2010	Andrew Mortimore, Director of Public Health	
Southampton Primary Care Trust, Provider	29.09.2010	Stephanie Ramsey	
Youth Offending Team	29.09.2010	Ian Langley	
Learning Skills Council	29.09.2010	Anne Marie Mountifield	
Local Safeguarding Children Board	29.09.2010	Donald McPhail	
Safe City Partnership	29.09.2010	Jon Dyer-Slade	
Primary Heads Conference	29.09.2010	Gerida Montagu- Munson	
Secondary Heads Conference	29.09.2010	Cassie Ellins	

Special Heads Conference	29.09.2010	Andy Evans	
Further Education Southampton	29.09.2010	Alice Wrighton	
Southampton Children's Alliance	29.09.2010	Jo Ash	
Southampton Council of Faiths	29.09.2010	Hazel Inskip	
School Governors' Forum	29.09.2010	Hazel Inskip	
Job Centre Plus	29.09.2010	Judi Strange	
Police Authority	29.09.2010	Sri Kandiah	

## 2. Introduction

The effective sharing of information between agencies and professionals is vital for early intervention to ensure that children and young people get the services they require, at the right time and without the need for children and families to tell and re-tell their story to more than one agency.

It is also essential that practitioners are able to appropriately highlight and share their concerns to protect children and young people from suffering harm from abuse or neglect and prevent them from offending. Failure to share information can both limit the effectiveness of the support and services a child or young person receives and has the potential to put them at risk. This Protocol needs to be read in conjunction with the Southampton, Hampshire, Isle of Wight, Portsmouth (4LSCB) Safeguarding Children Procedures.

The principle of informed consent is at the heart of effective information sharing i.e. the person understands why information needs to be shared, who will see it, what it will be used for and the implications. It is best practice to obtain the agreement of the child or young person (data subject), where they have the capacity to consent, or other person e.g. parent/carer, who is able to consent on their behalf to share personal information. This consent should be recorded whenever information is shared.

However, in certain circumstances it would be inappropriate to seek consent i.e. where this would place an individual at risk of harm. Where there is concern about seeking consent, further advice should be sought from the agency's own Data Protection officer, Caldicott Guardian or legal services.

This Protocol is not a licence to share all information, but provides a framework for staff in all signatory organisations to follow once they have determined that it is lawful to share information in accordance with the Data Protection Act 1998, the Common Law Duty of Confidence and Human Rights Act 1998. See Appendix 1 for related legislation.

## 3. Agreement of Signatories to the Protocol

The HM Government publication Information sharing: Practitioners guide provides the detailed guidance on the procedures that will be followed by all agencies signing this Protocol.

By signing this local protocol, agencies are agreeing:

- to adhere to the government procedures and guidance;
- to subscribe and work to the principles contained in this Protocol;
- to supply information within the bounds of this Protocol;
- to ensure all staff know of the existence of the Government guidance and this Protocol and support their attendance at any relevant training events.

Agreement to this Protocol does not remove each individual agency's responsibility to ensure that the information held within their organisation accords with relevant Data Protection and other legislation. Further advice, which should be followed, can be found in the HM Government publication Information Sharing: Further Guidance on legal issues.

#### 4. General Purpose of the Protocol

The decision to share or not to share information about a child or young person should always be based on professional judgement, supported by the cross-Government Information Sharing: Practitioners' Guide (see [www.everychildmatters.gov.uk/informationsharing](http://www.everychildmatters.gov.uk/informationsharing)<sup>1</sup>) and informed by training. This will be followed by everyone working with children and young people within the Southampton Children and Young People's Trust.

Additionally the government publication [Information Sharing: Further Guidance on Legal Issues](#)<sup>2</sup> gives a summary of the laws affecting information sharing.

The purpose of this Protocol is to clarify the supplementary local standards and procedures that will be used by the Southampton Children and Young People's Trust to ensure appropriate information sharing between agencies. This includes procedures to be followed in the event of any disagreement or dispute between agencies in relation to the sharing of information.

The Protocol covers the sharing of information between agencies and practitioners.

The Protocol does NOT cover requests from individuals who seek access to files which contain personal details about themselves. This will be covered by the appropriate policies and processes of those individual agencies or services.

#### 5. Who is the Protocol for?

The Protocol and guidance is for everyone who works with children and young people, aged 0-18 years and young people aged 19-25, where they have previously been a child in care of the Local Authority, have significant learning difficulties or disabilities or otherwise meet national criteria as being more vulnerable - whether they are employed or volunteers, in the public, private, voluntary or community sectors.

It also covers practitioners who work in services provided for adults, e.g. mental health services and drug and alcohol services, as many of the adults accessing those services may have parenting or caring responsibilities.

#### 6. Security of Information

Each agency will adhere to the points detailed below which will be explicitly documented in the individual Operational Agreements.

- Each agency will have clear systems and policies for sharing information which link to this overarching protocol and the 4LSCB procedures.
- Each agency will provide clear guidance to staff on the means to transmit or receive information and by so doing certifies that those methods are compliant with the Data Protection Act and adhere to both local and national standards of security and encryption as prescribed by the Information Commissioners Office (ICO).<sup>3</sup>
- Agencies will ensure the secure storage of data received.
- Where permission exists for the agency receiving data to hold it as an addition to

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<sup>1</sup> [http://www.everychildmatters.gov.uk/\\_files/116ABBC875E8FEE7BC1E03F534A1EFAA.pdf](http://www.everychildmatters.gov.uk/_files/116ABBC875E8FEE7BC1E03F534A1EFAA.pdf)

<sup>2</sup> [http://www.everychildmatters.gov.uk/\\_files/7507309FDD2CBBEEA8C4440042231903.pdf](http://www.everychildmatters.gov.uk/_files/7507309FDD2CBBEEA8C4440042231903.pdf)

<sup>3</sup> [http://www.ico.gov.uk/for\\_organisations/topic\\_specific\\_guides/Data%20security%20tips.aspx](http://www.ico.gov.uk/for_organisations/topic_specific_guides/Data%20security%20tips.aspx)

their existing records (see section 9), the data will be treated as though it was supplied to them direct from the data subject.

- When transferred data has served its purpose, all surplus paper records must be destroyed as confidential waste and electronic files must be deleted beyond recovery.

## 7. Commissioned Services

Each agency will ensure its agents and sub-contractors comply with the provisions of this Protocol.

Partnership Agreements and Service Level Agreements for commissioned services will require that contracted agencies and services have their own processes and systems for data security management, which are consistent with relevant legislation, guidance and protocols.

Each agency shall be responsible for the acts and omissions of their commissioned providers.

## 8. Retention of data

Signatories to the Protocol will ensure that all personal data processed for any purpose, including information obtained from any other agency, is not kept for any longer than is necessary for those purposes. It will be the responsibility of the recipient to ensure that all data is relevant, accurate and up to date.

Unless stated otherwise by the originating agency, once shared all data will then be subject to the data retention policy of the receiving agency and deleted/destroyed appropriately at the end of the retention period.

## 9. Accuracy of Information

When an agency finds information is inaccurate that agency shall advise the corrections to the originator of the information.

The originator must decide what corrective action is needed including advising appropriate agencies and/or individuals of the change.

## 10. Data Controller

The supplying agency remains the data controller for the purposes for which the data was collected.

When data is passed from one agency to another, the receiving agency becomes the data controller of that data for the purposes of the Data Protection Act 1998, unless specified otherwise in any linked operational agreement. Despite this change of data controller, secondary disclosure can only be permitted with the agreement of the information source provider.

## 11. Secondary Disclosure

When personal information is disclosed to another agency, the recipient must record the identity of the originator against the relevant information.

A recipient of the information who wishes to further disclose the information to a secondary body or person must ensure that it is lawful to do so, and that they are not breaching an existing agreement with the data/information source provider. If

Secondary Disclosure obligations are not explicitly detailed in the Operational Agreement then further consent must be obtained prior to further information sharing.

In respect of ContactPoint, consent is only required to record the contact details of the sensitive service practitioners on ContactPoint and to retain records for young people past 18. The duty to seek and record consent on ContactPoint will remain with the services working with a child, and contact details will only be added to ContactPoint where consent has been secured.

## 12. Depersonalised and Aggregated Data

In order to ensure effective service planning for children, young people and their families, depersonalised and aggregated data may need to be shared in certain circumstances.

In principle depersonalised data is not covered by Data Protection or matters of confidentiality. However, where very small numbers are concerned (usually considered 10 records or less), care must be taken to ensure that a person's identity cannot be deduced from the data shared.

Where depersonalised and aggregated data is shared with another organisation the purpose for which it is to be used should be established to ensure that sharing such data is valid. Guidance from senior management should be sought if in doubt.

## 13. Disputes between agencies

In the event of a dispute between agencies concerning whether or not information should be shared, the following process should be followed:

- Stage One: In the first instance, the issue should be referred to line manager who will liaise with other practitioner's line manager and attempt to resolve dispute.
- Stage Two: If still not resolved, the issue should escalate to Head of Service or Service Manager who should each take advice from either their Caldicott Guardian or Data Protection officer before final decision on whether or not to share information is made.
- Both agencies must record on their case files: the process followed, the reason why information was not shared and the impact that this had. See Appendix 2 and 3 for flowcharts outlining this process.
- All disputes (and also any breaches of this Protocol) must be reported to the Children's Services Executive who will keep a central register of disputes arising. This will enable them to monitor and review the effectiveness of this Protocol, as well as to identify any emerging trends and need for action or amendment.

## 14. Complaints

Each agency will deal with any complaints received about the use of or disclosure of personal information in accordance with their own procedures.

## 15. Indemnity

The recipient of data under this protocol will fully indemnify the supplying agency in respect of any claim, loss, liability or costs incurred as a consequence of a breach of this agreement by the recipient's agency for any liability which may be incurred as a result of the provision of information. This indemnity shall not apply where the liability arises from incomplete or incorrect information supplied due to wilful wrongdoing or negligence of the person providing the information; or where the signatory organisation notifies the supplying agency as soon as possible of any action, claim or demand to which the indemnity applies and renders all reasonable assistance; or where the supplying agency makes any admission which may be prejudicial to the defence of the action, claim or demand.

## 16. Links to other Protocols, Policies and Procedures

All parties to this protocol will ensure that it is taken into account and reflected in any additional protocols, policies or procedures they may implement, where there are implications for information sharing in respect of children and young people.

All parties will ensure that any changes effected through review of this protocol (see section 14) are taken into account in these additional protocols, policies and procedures and are updated as appropriate.

## 17. Review of this Protocol

This Protocol will be reviewed in September 2012 or sooner as legislation and guidance dictates. The review will be led by the Southampton Children and Young People's Trust Executive Group and its recommendations presented to the Southampton Children and Young People's Trust Board for ratification.

## 18. Agreement

Signatories agree to abide by this Southampton Children and Young People's Trust Information Sharing Protocol and confirm the following:

REQUIREMENTS LIST/RESPONSIBILITIES	
1	We have an information security policy
2	We have a Data Protection policy and procedures to maintain the security of data
3	Notification to the Information Commissioner's Office is up to date
4	Where required a Caldicott Guardian is appointed
5	Information sharing training is available to all relevant staff
6	The organisation is aware that it will remain legally responsible for the information held within the organisation as required by Data Protection legislation
7	The organisation will respond to requests for information within a reasonable time scale (as agreed in local/specific agreements and included in legislation e.g. Data Protection Act 1998).
8	All relevant staff are issued with a Code of Conduct or similar guidance
9	The organisation has confidentiality agreements for all staff (including permanent, temporary, voluntary, contract, students on placements, locums or bank staff, etc.)
10	The organisation has confidentiality clauses in all contracts
11	Service user records are stored in an appropriate and secure manner
12	Access to information is adequately controlled (e.g. by passwords and network access controls)
13	Secondary disclosures are prohibited unless explicit consent is received from the originating source
14	All new information systems should be designed to include clear audit trails for all access/uses of information
15	All information is backed up and all backups are held securely
16	Service user identifiable information will not be sent using unsecured email or postal services ( <a href="http://www.getsafeonline.org/nqcontent.cfm?a_id=1104">http://www.getsafeonline.org/nqcontent.cfm?a_id=1104</a> )
17	Where organisations are storing and/or transferring personal data that they have collected, they will adhere to both local and national standards of security and encryption as prescribed by the Information Commissioners Office (ICO) ( <a href="http://www.ico.gov.uk/for_organisations/topic_specific_guides/Data%20security%20tips.aspx">http://www.ico.gov.uk/for_organisations/topic_specific_guides/Data%20security%20tips.aspx</a> )
18	Where Southampton City Council (SCC) has a specific business need for an organisation to handle its information, for instance where a public service

	contract is in place, then the transfer of data will be governed specifically by SCC corporate standards, and encryption tools that meet those standards must always be used ( <a href="http://www.ico.gov.uk/news/current_topics/our_approach_to_encryption.aspx">http://www.ico.gov.uk/news/current_topics/our_approach_to_encryption.aspx</a> )
1 9	A secure disposal system is available for all service user information no longer required and that all staff have policies and/or procedures to follow (disposal may include paper/electronic information and information on other media such as memory sticks, floppy disks, DVDs, hard drives, tapes, x-rays, videos etc.)
2 0	All staff will know about and follow this Protocol

## 19. Appendix 1: Related Legislation

Access to Health Records Act 1990 (only for manual records of deceased patients)

The Adoption Act 1976

Adoption and Children Act 2002

Audit Commission Act 1998

Children Act 1989

Children Act 2004

Civil Contingencies Act 2004

Common Law Duty of Confidence

Computer Misuse Act 1990

Confidentiality: NHS Code of Practice 2003 (Department of Health)

Copyright Designs and Patents Act 1988

Crime & Disorder Act 1998 (and Review 2006)

The Criminal Justice Act 2003

Data Protection Act 1998

Disability Discrimination Act 1995

Freedom of Information Act 2000

Health & Social Care Act 2001

The Health Act 1999 (section 31)

The Health and Social Care Act 2001

Human Rights Act 1998

Medical Act 1983

Medical Act Amendment Order 2000

MENTAL Capacity Act 2005

Mental Health Act 1983

NHS & Community Care Act 1990

Professional Performance Act Department of Health: 1995

Regulation of Investigatory Powers Act 2000



## 21. Appendix 3: Flowchart for disputes between agencies

