

## **20.1 Introduction**

The Government guidance document "No Secrets" recognises that there are circumstances in which it will be necessary to share confidential information about service users, who may be at risk of abuse, when it is in their best interests.

Although the wishes and views of the service user will normally be respected when sharing the information, agencies cannot guarantee a fully confidential service. There will always be exceptional circumstances when a duty to protect the wider public interest will outweigh the responsibility to any one individual.

Therefore:

- Information will only be shared on a need-to-know basis when it is in the best interests of the service user.
- Confidentiality must never be confused with secrecy.
- Informed consent should be obtained. If this is not possible, and other adults are at risk, it may be necessary to override the requirement.
- It is inappropriate for agencies or workers to give assurances of absolute confidentiality in cases where there are concerns about abuse, particularly in situations where other vulnerable people may be at risk.
- Decisions about who needs to know and what needs to be known should be taken on a case-by-case basis.
- Information about a service user should only be shared with an agency on a need-to-know basis, to support the effective delivery of services to that user.
- Decisions made to share information concerning the user with other agencies can normally only be made with the expressed consent of the user.

- Users and carers should be advised why and with whom, information will be shared.
- The principles of confidentiality designed to protect the management interests of an organisation must never be allowed to conflict with those designed to protect the interests of the service user.
- Information given to an individual member of staff, or agency representative, belongs to the agency and not the individual employee. Therefore, decisions to share information about the user in question should be made by the agency and not one individual acting on their own.
- Agencies should have in place appropriate decision-making mechanisms for deciding when the agency's duty to protect the wider public interest outweighs their responsibilities to protect the user's right to confidentiality.
- Issues of safeguarding adults can fall into this category, but agencies may need to seek legal advice in relation to specific circumstances.
- When information is received about possible abuse from a member of the public or other third party, it is important to clarify whether the informant is prepared to be identified. It may be necessary to discuss with the informant how effective the information given will be if she/ he is not prepared to be identified or come forward as a witness. Where legal proceedings are involved, it may not be possible or appropriate to guarantee anonymity.
- In circumstances where it is necessary to disclose personal information, this will need to be done in accordance with the Data Protection Act 1998.

"No Secrets" makes it clear that agencies are expected to share information about clients who may be at risk of abuse. It is important to identify an abusive situation as early as possible so that the individual can be protected. Withholding information may lead to abuse not being dealt with early enough. For these reasons confidentiality must never be confused with secrecy.

Service users should be informed, or reminded if they have previously received an assessment, when and why information will be shared. Where the user is unhappy, their concerns should be recorded.

It is preferable that the user is told before any information is passed on but this may not always be possible. If not possible, or the service user does not have the capacity to understand, information can be shared between agencies without the consent of the individual.

Information should be shared on a "need to know" basis. Only information relevant to the immediate situation needs to be disclosed. Information is shared only for the purpose of providing care or for the protection of the adult at risk.

In order to assess the "vital interests" [as defined in Schedule 3 of the Data Protection Act 1998] of the adult, consideration should be given to how strong the belief is in the truth of a particular allegation, what the interest of any third party is in receiving the information, and what the degree of risk is if disclosure is not made?

All decisions made about withholding or sharing information must be recorded, particularly where the consent of the subject of the information has not been obtained. Decisions about who needs to know and what needs to be known should be taken on a case-by-case basis. There will be circumstances when a duty to protect the wider public will outweigh the responsibility to any one individual. If it is assessed that the service user poses a threat to other service users, this should be included in any information that is passed on to service providers.

Whilst papers and records belong to the agency, the information belongs to the individual. The views and wishes of the adult at risk will normally be respected unless it is thought that they are in a situation which results in their abuse, or if it is thought that they may be abusing another person or persons.

Where the adult has the capacity to make a decision, it is for them to decide what information is to be disclosed to their carers/parents/family/partners. Where they do not have this capacity, consideration should be given when to share information. Decisions should be recorded about when to share, what to share, and who is the most appropriate person to talk to the adult.