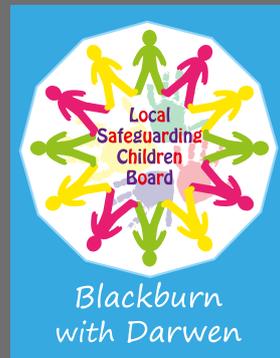


Blackburn with Darwen

Local Safeguarding Children Board (LSCB)



LSCB Information Sharing Protocol



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Section 1:

Purpose of the protocol

Effective safeguarding systems are those where... all professionals share appropriate information in a timely way and can discuss any concerns about an individual child with colleagues and local authority children's social care...

Paragraph 1.12, Working Together to Safeguard Children (2015)

1.1 This protocol has been developed to:

- Define the specific purposes for which the agencies have agreed to share information between themselves and with the Blackburn with Darwen Local Safeguarding Children Board (LSCB);
- Set out the legal gateway through which the information is shared, including reference to the Human Rights Act 1998 and the common law duty of confidentiality;
- Describe the security procedures necessary to ensure compliance with responsibilities under the Data Protection Act 1998 and the General Data Protection Regulation 2016 and agency specific security requirements;
- Describe how this arrangement will be monitored and reviewed.

1.2 This protocol complies with the provisions of the Children Act (2004) and related guidance outlined in Working Together to Safeguard Children (2015) requiring the Blackburn with Darwen LSCB to have in place arrangements for information sharing between statutory partners, relevant persons and bodies (and service providers acting on their behalf)¹, and with the LSCB to ensure each LSCB member agency fulfils their functions under the Children Act (2004).

1.3 The Blackburn with Darwen LSCB is not a legal entity. Each LSCB member agency remains a legal entity in their own right. Nothing in this document shall be deemed as creating a legal partnership, or contractual or principal/agent relationship between any of the LSCB member agencies.

¹As Listed in Appendix 1 and hereafter referred to in this protocol as 'LSCB member agencies'

Section 1:

Purpose of the protocol

- 1.4 The purpose of this protocol is to assist the sharing of information between the LSCB member agencies and the LSCB to enable:
- Each LSCB member agency, to which section 10 of the Children Act (2004) applies, to fulfil its statutory duties to co-operate with each other in the safeguarding and promoting the welfare of children; and
 - Each LSCB member agency to co-operate with the LSCB in fulfilling the functions of the LSCB under section 14 of the Children Act (2004)².
- 1.5 This protocol will regulate the processing of data in relation to the areas of work set out in section 2 insofar as each of the LSCB member agencies are involved in the specific areas of information sharing detailed. However, it does not override existing legal safeguards on personal information. The data will be processed solely for the 'purposes' specified and will be accessed only as identified.

²LSCB functions as listed in Appendix 2

Section 2:

Purpose for Sharing Information

- 2.1 The purpose of sharing information between agencies and with the LSCB is to ensure agencies individually and collectively can safeguard and promote the welfare of children. Working Together to Safeguard Children (2015) defines safeguarding and promoting the welfare of children as:
- Protecting children from maltreatment;
 - Preventing impairment of children's health or development;
 - Ensuring that children grow up in circumstances consistent with the provision of safe and effective care; and
 - Taking action to enable all children to have the best outcomes.
- 2.2 Chapter 2 of Working Together to Safeguard Children (paragraphs 9 to 44) outlines agency and sector level safeguarding responsibilities, in particular responsibilities to have safeguarding arrangements in place consistent with section 11 of the Children Act (2004). The requirements include having information sharing processes in place between professionals and with the LSCB.
- 2.3 For professionals in LSCB member agencies sharing information between each other, the purpose of sharing information will be for the following reasons:
- Identifying the symptoms and triggers of need, vulnerability, early help, abuse or neglect;
 - Undertaking assessments to gather information about children and families, analyse their needs, risks or harm suffered by the children, and decide the support required to improve the children's outcomes to make them safe; and
 - Organising support that can be provided through service provision and review this support for its effectiveness in improving children's outcomes to make them safe.
- 2.4 For LSCB member agencies sharing information with the LSCB, the purpose of sharing information will be to allow the LSCB to fulfil its statutory objectives. Section 14 of Children Act (2004) outlines the LSCB's statutory objectives as:
- Co-ordinating what is done by each agency represented on the LSCB for the purposes of safeguarding and promoting the welfare of children; and
 - Ensuring the effectiveness of what is done by each agency, individually and collectively, for the purposes of safeguarding and promoting the welfare of children.
- 2.5 Appendix 2 outlines the statutory functions of the LSCB and how the board's objectives will be fulfilled. For most functions, agencies will be sharing de-personalised and/or anonymised data, however for serious case reviews, multi-agency case reviews, multi-agency audits³ and child death reviews, agencies will be required to share personal, and confidential (including medically confidential) data.

³The sharing of information for multi-agency concise reviews and multi-agency audits is covered under the LSCB's functions relating to regulation 5 (3) in Appendix 2

Section 3:

Legal Gateway

- 3.1 As set out under section 1.4 of this protocol, the main legal gateway (or statutory power to share information) for the purposes of this protocol is section 10 of the Children Act (2004) that places a duty on all LSCB member agencies to make (information sharing) arrangements to promote co-operation.
- 3.2 In applying section 10 of the Children Act (2004), all LSCB member agencies and the LSCB must also adhere to the arrangements outlined in the Data Protection Act (1998), Human Rights Act (1998) and the General Data Protection Regulation (2016).
- 3.3 To help agencies determine and decide where information shared, between LSCB member agencies and with the LSCB, fulfils all legal requirements (Data Protection Act (1998), Human Rights Act (1998) and General Data Protection Regulation (2016)), the flowchart on page 7 should be used to help inform decision making⁴.
- 3.4 Consent under the General Data Protection Regulation (2016) requires the following principles to be adhered to for both adults and children:
- Consent must be 'specific' – a practitioner is clear with the adult and/or child on what records will be created in order to deliver the service that is advised;
 - Consent must be 'informed' – the practitioner is clear with the adult and/or child on how the record is used by their agency and by other agencies when multi-agency services are advised;
 - Consent must be 'unambiguous' – consent cannot be implied and cannot be part of 'terms and conditions'; there needs to be a positive 'opt-in' and clear information provided on how consent can be withdrawn;
 - Consent must be 'freely given' – the adult and/or child willingly provides consent with affirmative actions; and
 - Consent is 'verifiable' – there is a clear record of how consent was obtained covering all the principles above.

⁴Information Sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers, HM Government (2015)

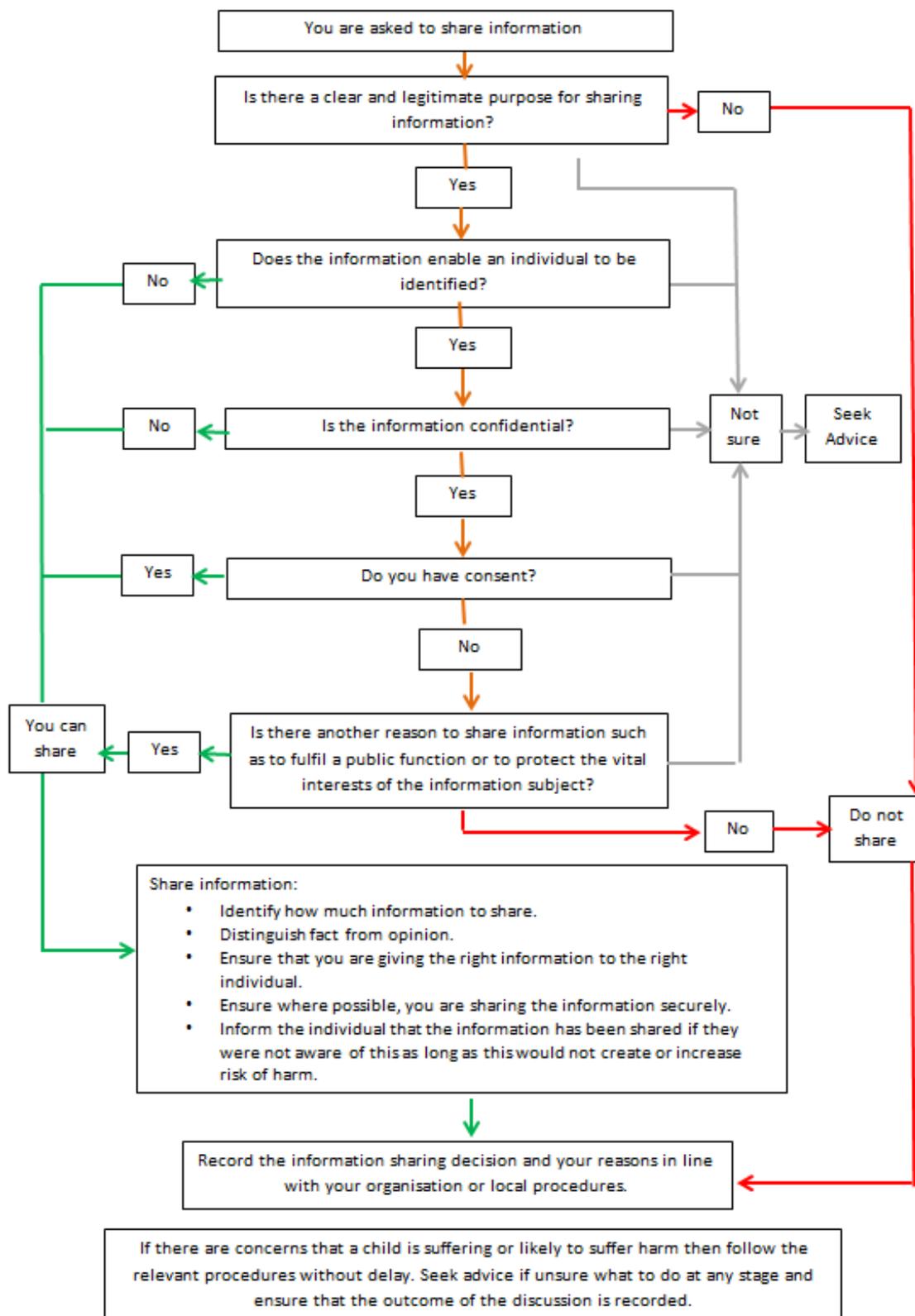
Section 3:

Legal Gateway

- 3.5 Obtaining consent for the provision of services at all levels of the Continuum of Need & Response Framework is best practice. At level 4 of the Framework (reasonable cause to suspect the child is suffering, or likely to suffer, significant harm) the need for consent can be overridden by clearly documenting if the public function or vital interest tests are satisfied. The elements that meet the tests are:
- Seeking consent from the parent/carer and/or child may place a child at risk/further risk, of significant harm;
 - Seeking consent will prejudice the detection of a crime; and/or
 - Seeking consent will leads to an unjustified delay in making enquiries.
- 3.6 In addition to the legal power under section 10 of the Children Act (2004), individual member agencies and their partners also have other responsibilities to share information that satisfies the public function/vital interests test outlined in the flowchart on page 7. The list below is not exhaustive but covers the main LSCB member agencies:
- Section 27 of the Children Act (1989) places a duty on a variety of agencies to share information with children's social care; where the information is shared to immediately protect a child suffering significant harm, or is likely to suffer significant harm (under section 47 of the Children Act 1989) it will meet the public function/vital interests tests to share without consent;
 - Section 82 of the NHS Act (2006) places a duty to co-operate upon NHS bodies and local authorities to secure and advance the health and wellbeing of the population;
 - Section 17 of the Crime and Disorder Act (1998) sets out the power for a range of agencies to share information for the purposes of preventing crime and disorder;
 -
 - MAPPA arrangements cover sharing information for managing sexual and violent offenders;
 - MARAC arrangements cover sharing information for multi-agency provision of services for victims of domestic abuse to help reduce their victimisation ;
 - The Mental Capacity Act (2005) and associated Code of Practice (2007); and
 - The Care Act (2014) guidance on multi-agency arrangements to protect at risk adults from abuse.

Flowchart of when and how to share information

Flowchart of when and how to share information



Section 4:

Application

4.1 LSCB member agencies undertake:

- to comply with the provisions of the Data Protection Act 1998 and General Data Protection Regulation 2016;
- to comply with the provisions of the Human Rights Act 1998;
- to uphold the requirements of the common law duty of confidentiality;
- to comply with any other relevant legislation governing the exchange of information;
- to process only de-personalised data in any circumstance where the purpose can be achieved without the disclosure of personal data;
- to ensure that where de-personalised data is processed, it will not be matched, merged or correlated in any way which could result in the identification of an individual without the prior consent of the originator and the implementation of necessary safeguards to protect the rights and freedoms of the individual;
- to process personal, and/or confidential (including medically confidential) data with consent of the data subject, unless public function/vital interests test is satisfied to share data without consent;
- to use data only for the specified purpose for which it is intended to be processed;
- to process only data that is sufficient and relevant, and not excessive, to the specified purpose for which it is intended to be processed, to be determined on a case-by-case basis;
- to process information lawfully in each case;
- to process information fairly and objectively in each case;
- only to process information where it is necessary for the specified purpose for which it is intended and cannot be achieved by any other means;
- to process information proportionately in each case;
- to retain data no longer than is necessary in the circumstances of each case and to securely dispose of data that is no longer required;
- to collect, process, store and disclose all data in accordance with this protocol and relevant legislation;

Section 4:

Application

- not to process information for any purpose other than that set out in this protocol (the safeguarding and promoting the welfare of children);
- to restrict the processing of data to any employees involved in pursuance of the specified purpose (as outlined in section 2.2 to 2.5) for which the data is intended to be processed;
- to take all reasonable steps to ensure that any employees involved in the processing of data in pursuance of the specified purpose, are aware of their responsibilities to ensure the lawful processing of data;
- not to further process information received under this protocol in any manner incompatible with the purpose for which the information was originally intended and without written agreement of the data subject and agency data controller (where relevant from the agency data processor).
- to provide data required to be exchanged, in the correct manner, within the correct and agreed time limit; and
- to work in partnership and give reasonable assistance to other agency data controllers to enable statutory obligations to be fulfilled.

4.2 This protocol and associated documents shall be subject to disclosure under the provisions of the Freedom of Information Act (2000). Any 'request for information' received in relation to the protocol should be responded to directly by agency data controllers within 20 working days in accordance with the legislation. The Safeguarding Unit should be informed of such 'requests for information' by agency data controllers as soon as practicable.

Section 5:

Security of Data

- 5.1 Each LSCB member agency and the LSCB will ensure they have appropriate security arrangements in place and take all reasonable steps to adequately protect the data, both technologically and physically, against unauthorised or unlawful processing, accidental loss, or destruction of, or damage to data.
- 5.2 Agencies and the LSCB will conduct regular audits of security arrangements to ensure they are effective and in compliance with the provisions of the Data Protection Act (1998) and General Data Protection Regulation (2016).

Section 6:

Review and Variation of the Protocol

- 6.1 The LSCB member agencies will consider varying the protocol as a result of changes in:
- Practice/procedures;
 - Legislation/guidance; and/or
 - Information Commissioner rulings/case law.
- 6.2 The LSCB member agencies can seek a review of the protocol to ensure that:
- The processing of information is contributing to the achievement of the purpose of the protocol;
 - Security arrangements remain adequate and any breaches are being acted upon;
 - Time limits for the processing of information are being adhered to where appropriate;
 - Confidentiality requirements are being met; and/or
 - Member agencies are working together to ensure that the flow of information between agencies and with the LSCB, in pursuance of the co-operating objectives, is not restricted by uncertainty and inconsistency in decisions to share information between agencies.
- 6.3 LSCB member agencies may propose changes to this protocol or its appendices at any time by submitting a suggested revision to the Independent Chair of the LSCB in writing, so that the impact of proposed changes can be assessed, consulted upon and agreed.

Appendix 1

Statutory LSCB Partners, Relevant Persons and Bodies

Section 13 of the Children Act (2004) sets out that the LSCB must include at least one representative of the local authority and each of the other Board partners as set out below. Board partners who must be included in the LSCB are:

- District councils in local government areas which have them;
- The Chief Officer of Police;
- The National Probation Service and Community Rehabilitation Companies;
- Youth Offending Team;
- NHS England Area Team;
- Clinical Commissioning Group;
- NHS Trusts and NHS Foundation Trusts (including appropriate representation of hospitals, establishments, facilities and services situated in the local authority area);
- CAFCASS;
- The Governor or Director of any secure training centre in the area of the authority; and
- The Governor or Director of any prison in the area of the authority which ordinarily detains children;
- The Local Authority must also take reasonable steps to ensure representation from the following persons and bodies:
 - The governing body of maintained schools
 - The proprietor of non-maintained special schools
 - The proprietor of a city technology college, a city college for the technology of the arts , or an academy;
 - The governing body of a further education institute, the main site of which is situated in the authority's area; and
 - Two lay members representing the local community.

Appendix 2

LSCB Functions

Section 14 of the Children Act (2004) outlines the LSCB's statutory objectives as:

- Co-ordinating what is done by each agency represented on the LSCB for the purposes of safeguarding and promoting the welfare of children; and
- Ensuring the effectiveness of what is done by each agency, individually and collectively, for the purposes of safeguarding and promoting the welfare of children.

The LSCB Regulations (2006) set out the statutory functions of the LSCB in relation to meeting the objectives above. From the six regulations set out in the 2006 document, the appropriate ones are listed below for the purposes of this Information Sharing Protocol.

- **Regulation 5 (1)(a)** – developing policies and procedures for safeguarding and promoting the welfare of children in relation to:
 - i. the action to be taken where there are concerns about a child's safety or welfare, including thresholds for intervention;
 - ii. the training of persons who work with children, or in services affecting the safety and welfare of children;
 - iii. the recruitment and supervision of persons who work with children;
 - iv. the investigation of allegations concerning persons who work with children;
 - v. the safety and welfare of children who are privately fostered;
 - vi. the co-operation with neighbouring children's services authorities and their Board partners;
- **Regulation 5 (1)(b)** – communicating to persons and bodies in the area of the authority the need to safeguard and promote the welfare of children, raising their awareness of how this can best be done, and encouraging them to do so;
- **Regulation 5 (1)(c)** – monitoring and evaluating the effectiveness of what is done by the local authority and their Board partners, individually and collectively, to safeguard and promote the welfare of children, and advising them on ways to improve;
- **Regulation 5 (1)(d)** – participating in the planning of services for children in the area of the authority;
- **Regulation 5 (1)(e)** – undertaking reviews of serious cases and advising the local authority and their Board partners on lessons to be learned;
- **Regulation 5 (3)** – LSCB may also engage in any other activity that facilitates, or is conducive to, the achievement of its objectives;
- **Regulation 6 (1)(a)** – collecting and analysing information about each child death to enable the Child Death Overview Panel (CDOP) to review any public health or safety or welfare concerns arising from a particular death, or from a pattern of deaths in the area;
- **Regulation 6 (1)(b)** – putting in place procedures for ensuring that there is a co-ordinated response by the local authority and their Board partners and other relevant persons to an unexpected child death.