

Choose To Live Procedural Guidelines for Sharing Confidential Information



Date written: 26th November 2017

Review date: 26th November 2018

1. Staff and volunteers may find themselves wishing to or being asked to share information of a confidential nature about children and families using the Choose To Live service. This may be because:
 - The staff member/volunteer is of the view that someone in the family may benefit from additional support
 - Someone from another agency has been in touch and wishes to know something about the family's involvement with the Choose To Live service
 - Someone in the family has asked to be referred for further help
 - The staff member/volunteer is concerned that a child may be at risk of significant harm, or an adult in the family may be at risk of serious harm, or there is a serious crime that may have been committed or about to be committed involving someone in the family.
2. Before sharing the information, the staff member/volunteer should record what it is that they wish to share, who they wish to share it with, and the purpose of doing so. If the reason involves risk of harm to a child, young person or adult, then child protection procedures or adult safeguarding procedures should be referred to immediately. In any other situation, these guidelines should continue to be followed.
3. The staff member/volunteer should then consider the issue of consent to the information being shared. If the information relates to an adult who is capable of giving consent, and such consent has not already been obtained, then the staff member/volunteer should seek the consent of the person concerned unless doing so would place someone at risk of harm or would impede the prevention or investigation of a serious crime. If the information relates to a child or young person, then the matter should be discussed with the child or young person if they are capable of understanding it. If, in the view of the staff member or volunteer, the child or young person is competent to give their consent (see here for Gillick Competency guidance <https://www.nspcc.org.uk/preventing-abuse/child-protection-system/legal-definition-child-rights-law/gillick-competency-fraser-guidelines/>) then this should be sought unless the urgency or seriousness of the situation prevents this, as suggested above.
4. When seeking consent, the staff member/volunteer should ask for this in writing if possible, unless this is inappropriate. If written consent is not possible, then the staff member/volunteer should record that it has been obtained verbally. Before being asked to

give consent, families and children/young people should be made aware of what information is to be shared, the purpose of doing so, with whom it will be shared and the consequences of it not being shared.

5. The staff member/volunteer should then pass the information on to the agreed agency without delay (ie within one week of consent being obtained or sooner if circumstances require). This should be done within the following parameters of good practice, and recorded:
 - Make a conscious decision on how information to share based on the public interest – which, in this case, will normally be the interests of the child.
 - Ensure that it is shared securely – this means checking who exactly is receiving the information, and that they are doing so in a confidential environment.
 - Make sure that the information you share is as accurate and up to date as possible; if you are unsure of any of it but still decide to share it, then make sure that the recipient is aware of any areas of uncertainty
 - Distinguish clearly between fact and opinion.
 - Ask what the recipient is going to do with the information and whether they will need to pass it on to anyone else.
 - Inform the person who is the subject of the information that it has been passed on, unless it would be unsafe or inappropriate to do so.
6. If consent is withheld, or if it cannot be sought because of a risk of harm to someone, or because of the risk of a serious crime being committed, or because of the investigation of a serious crime being compromised, then the staff member/volunteer should consult with their manager on whether the information should be shared without consent.
7. In such a situation, the manager and the staff member/volunteer need to weigh up whether sharing the information is in the public interest. 'Public Interest' is a term used in the Data Protection Act but not clearly defined. It can refer to the interests of the whole community, or to a group within the community, or to individuals. Normally it would be considered to be in the public interest for the confidentiality of service users to be protected, but this may be outweighed by the public interest involved in protecting people from harm, preventing crime or disorder, or promoting children's welfare by making sure that they have access to safe and effective care. The manager, in consultation with the member of staff/volunteer, needs to decide whether, on balance and in this particular case, the public interest is served by information being shared without consent.
8. If the decision is not to share the information, this must be recorded and the reasons for not sharing must be stated. If the decision is to go ahead and share the information, then this must be done by either the manager or the staff member/volunteer (it must be clearly understood between them who will do it) within one week of the decision being made (or sooner if circumstances require). The parameters of good practice outlined under point 5 should be used to inform the process of sharing the information.

9. The manager and staff member/volunteer should record the decision to share the information without consent, the reasons for doing so, and the details of how this was done. This record must be signed by both.