

Safeguarding, Confidentiality and Information sharing

One of the key principles embedding best practice in relation to safeguarding is ensuring that information relating to concerns is shared with / or between relevant bodies in order to potentially protect children, young people and vulnerable adults. The Diocese needs to consider the sharing of information about individuals who may be at risk, and about adults working and volunteering with them, in relation to concerns, and information arising from recruitment processes including criminal records checks.

The purpose of this document is to clarify the position in relation to what information about an individual can be shared with another agency or organisation. If you have a concern it is always best to discuss it with a designated person within the diocese. This may be your Church Safeguarding Officer or the Diocesan Safeguarding Adviser who will provide support and advice. If you make a direct referral to the Police or Children's Social Care, to avoid any delay where levels of concern are high or there are felt to be immediate risks, you must always ensure that the DSA is informed so that they can provide support or follow up.

With regard to case information that warrants referral to, and investigation by, a statutory agency (including concerns about behaviour referred to the Local Authority Designated Officer – LADO) it is appropriate and important for the Diocese to give the statutory agency details of any other relevant organisation, diocese or parish that may need to be aware of a concern. For example if somebody is volunteering as a youth worker in a parish but is suspended following an allegation, if you are aware that they are actively volunteering with children and young people in another community setting, the statutory agency may feel that it is relevant to contact that organisation to make them aware of the allegation.

Confidentiality and the sharing of information is guided by legislation and national documents, including:

The Data Protection Act

The Data Protection Act provides a framework to ensure that personal information is handled properly; it is not a barrier to sharing information. It gives individuals the right to know what information is held about them. For more information on the Data Protection Act visit the Information Commissioners Office website.

The Human Rights Act 1998 strengthens the fundamental rights and freedoms contained in the European Convention on Human Rights. These rights not only impact matters of life and death, they also affect the rights you have in your everyday life: what you can say and do, your beliefs, your right to a fair trial and other similar basic entitlements. It is not, nor is it intended to be, a block to sharing information in the interests of safeguarding children or vulnerable adults.

The Freedom of Information Act 2000/2012

The Freedom of Information Act supports the proper management and sharing of information held on individuals.

The Mental Capacity Act 2005

The Mental Capacity Act can be used to protect people who are unable to make a decision or understand the information relevant to the decision

Children Acts 1989 and 2004

Embeds the principle that the protection of children is the paramount principle and is the most important consideration where information is shared in the interests of safeguarding.

As long as a person is *genuinely of the belief* that it is necessary for information to be shared in the interests of protecting a child or children (and they record this as the reason for doing so), even if their concerns subsequently are felt to be unfounded, this is absolutely legitimate and is supported by current UK law and government guidance. The following principles should always be considered:

Seven Golden Rules for Information Sharing

In 2008 the Department for Children, Schools and Families (DCSF) developed an Information Sharing Pocket Guide which includes seven golden rules for information sharing:

- Data protection is not a barrier to sharing information – *but provides a framework to ensure information is shared appropriately*
- Be open and honest – *with the person from the outset about why, what, how and with whom information will, or could be shared*
- Seek advice – *if you are in any doubt, without disclosing the identity of the person where possible*
- Share with consent where appropriate – *and, where possible, respect the wishes of those who do not consent to share confidential information*
- Consider safety and well-being – *base your information-sharing decision on considerations of the safety and well-being of the person and others whom may be affected by their actions*
- Necessary, proportionate, relevant, accurate, timely and secure – *ensure information you share is necessary for the purpose for which you are sharing it, is shared only with those who need to have it, it accurately and is shared securely*
- Keep a record – *of your decision and the reasons for it.*

Sharing Information where there are Concerns

It is important to share information arising from concerns about the welfare or safety of a child, young person, vulnerable adult or the behaviour of an adult or another young person who may represent a risk to them.

In order to ensure that children and vulnerable adults are effectively safeguarded it is important that concerns are shared with appropriate people and agencies.

When considering with whom information should be shared, refer to the Diocesan Safeguarding Adviser who will support and provide advice. As this information is highly sensitive, it is important that it is not shared more broadly than this, and guidance is sought from the DSA about who within the diocese needs to know these details.

In addition to the sharing of information within the parish and / or Diocese, concerns may need to be shared with external agencies. Again, it is important to apply Diocesan safeguarding procedures to guide you concerning who makes these contacts and who should be informed of this information. It is also useful to employ the principles mentioned above in the DCSF guide to inform these decisions.

Remember, you may only have one part of a jigsaw of concerns – information that you hold may help to inform statutory agencies (Children or Adult Social Care / Police) to enable them to keep that child or vulnerable adult safe from harm. In isolation no one piece of information may raise significant concerns but the full picture may be very different and help to effectively safeguard a child, young person or vulnerable adult.

Sharing information arising from recruitment processes

In order to ensure the protection of children and vulnerable adults it is recognised that information relating to the background of someone involved in a position of trust or responsibility with children / vulnerable adults must be considered when recruiting or appointing.

There are clear guidelines about limitations to the amount of information that can be shared between organisations. ***The contents of a criminal records disclosure cannot be shared by the DSA with the parish but any decision or recommendation arising from the risk assessment of this information will be shared and must be acted upon for the role in question and any other role that is known to be relevant which brings the applicant into contact with vulnerable groups.*** In order to safeguard children it may however be appropriate for the DSA to contact another organisation following a recruitment process and, though not sharing a Disclosure Certificate contents, they would use the following wording to communicate concerns:

“This person has applied to undertake a role within the Diocese of Blackburn that would involve contact with and responsibility for children / vulnerable adults. As a result of our selection / recruitment process, which includes formal safeguarding checks, s/he has been deemed unsuitable for this role / position. The Diocese strongly suggests that your organisation undertakes relevant safeguarding checks immediately”

Sharing Information about Vulnerable Adults

Adults have a right to self-determination and to be consulted before any action is taken concerning them or on their behalf. Therefore informed consent for the sharing of information should be obtained from the vulnerable, either in writing or verbally, whenever possible. Full details of the consent should be recorded, i.e. date consent is given, what information can be shared and with whom.

If the vulnerable adult does not have capacity to consent to the sharing of information, decisions must be taken on a best interest basis and Mental Capacity Act 2005 guidance should be followed.

If a vulnerable adult withholds consent to the sharing of information regarding safeguarding concerns, wherever possible their views and wishes should be respected. However, if there is an overriding public interest or vital interest or if gaining consent would put the adult at further risk, the duty of care overrides the individual's refusal and a referral for support should be made. The need to protect the individual or the wider public outweighs their rights to confidentiality. This would include situations where:

- other people or children could be at risk from the person causing harm
- it is necessary to prevent crime
- where there is a high risk to the health and safety of the adult at risk
- the person lacks capacity to consent

If the vulnerable adult has capacity and does not consent to a referral and there are no public or vital interest considerations, they should be given information about where to get help if they change their mind, or, if the abuse or neglect continues, and they subsequently want support to promote their safety. The referrer must assure themselves that the decision to withhold consent is not made under undue influence, coercion or intimidation.

A safeguarding record must be made of the concern, the vulnerable adult's decision and of the decision not to refer, with reasons. A record should also be made of what information they were given.

Sacramental confession

It is important to distinguish between what is heard in formal sacramental confession in church (which is made for the quieting of conscience and intended to lead to absolution) and disclosures made in pastoral situations. For this reason it is helpful if sacramental confessions are normally heard at advertised times within the church building and are part

of liturgy (or in some way clearly differentiated from a general pastoral conversation or a meeting for spiritual direction).

It is possible that relevant information which indicates abuse or risk of abuse may be disclosed in the particular context of sacramental confession. Canon Law constrains a priest from disclosing details of any crime or offence which is revealed in the course of formal sacramental confession. There is some doubt, however, as to whether this absolute privilege is consistent with the civil law and it is not consistent with the principle in legislation that the protection of children must be paramount over any other considerations^[2].

If a penitent discloses information about his / her own criminal or abusive behaviour, the priest should not only tell the person that they must report it to the Police themselves, but also withhold absolution until this evidence of repentance has been demonstrated. It is the priest's duty to hold the welfare of each person sacred alongside their own powers to guide right action. A priest may provide guidance and support to an individual through the formal processes of reporting their abusive behaviour as a step towards demonstrating and achieving resolution.

Canon Law should not be open to misuse and be seen as a mechanism for individuals who disclose abusive behaviour to avoid action being taken to protect those at risk. Members of the clergy should be alert to their own potential vulnerability, that of members of their congregation and the organisational risk of a decision not to share information which indicates that an individual may present a safeguarding risk. Priests must in these circumstances assess risk and evidence that they have taken action to reduce any risks identified. Should an individual who has disclosed relevant information to a priest



subsequently be found to have harmed or abused children or vulnerable adults, that priest may be compromised by not having taken any action.

Disclosures made during pastoral conversations which indicate abuse or risk of abuse should be reported to the Police without delay and advice / support sought from the DST.

[1] Children Acts 1999 and 2006