

# North Somerset Safeguarding Adults

## North Somerset Safeguarding Adults Board Information Sharing Protocol



This is an approved North Somerset Safeguarding Adult Board document and should not be edited in any way

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<b>Target Audience:</b> Multi-agency
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### Parties

This document applies to all member organisations of the North Somerset Safeguarding Adults Board (NSSAB).

### Purpose

To support the functions of the North Somerset Safeguarding Adults Board.

### This document

This document sets the expectations NSSAB has of its partners. It explains the need to share information to support the functions of the NSSAB.

The Agreement is intended to provide a consistent approach to information sharing across the partnership. It has been produced to support Board's represented organisations in the decisions they take when sharing information to support the NSSAB's functions.

Sharing the right information, at the right time, with the right people, is fundamental to good practice in safeguarding adults. Fears about sharing information cannot be allowed to stand in the way of the need to protect and meet the needs of vulnerable people.

Under the Care Act 2014 each relevant partner must cooperate with the local authority. Section 45 of the Care Act focuses on 'supply of information'. This relates to the responsibilities of others to comply with requests for information from the North Somerset Safeguarding Adults Board for the purpose of enabling or assisting it to exercise its functions.

Section 45 'the supply of information' covers the responsibility of others to comply with any request for information from the safeguarding adults board for the purposes of progressing an enquiry.... If there is reluctance from partners to share information the matter should be referred to the Board which can then consider whether the concern warrants a request, under Clause 45 of the Care Act, for the 'supply of information'. Then the reluctant party would only have grounds for refusal if it would be 'incompatible with their own duties or have an adverse effect on the exercise of their functions.'

## Why do we need to share adult safeguarding information?

Organisations need to share safeguarding information with the right people at the right time to:

- Prevent death or serious harm
- Coordinate effective and efficient responses
- Enable early interventions to prevent the escalation of risk
- Prevent abuse and harm that may increase the need for care and support
- Maintain and improve good practice in safeguarding adults
- Reveal patterns of abuse that were previously undetected and could identify others at risk of abuse
- Identify low level concerns that may reveal people at risk of abuse
- Help people to access the right kind of support to reduce risk and promote wellbeing
- Help identify people who may pose a risk to others and, where possible, work to reduce offending behaviour
- Reduce organisational risk and protect reputation.

Sharing information about known or suspected risks may help to prevent abuse taking place. The safeguarding adults board has a key role to play in sharing information and intelligence on both local and national threats and risks.

## The seven golden rules to information sharing

1. **Remember that the General Data Protection Regulation (GDPR) and human rights law are not barriers to justified information sharing**, but provide a framework to ensure that personal information about living individuals is shared appropriately.
2. When you are sharing or requesting personal information from someone, be certain of the basis upon which you are doing so (*you may need to take advice from your data protection officer*).
3. **Be open and honest** with the individual (and/or their family where appropriate) from the outset about why, what, how and with whom information will, or could be shared, and seek their agreement and, even when sharing without consent, **tell them when information is being shared** unless it is unsafe or inappropriate to do so.
4. Share with consent only where appropriate **and where sharing the information does not fall under a different lawful reason**. Where you have consent, be mindful that an individual would have the expectation that only relevant information would be shared and must have the option to withdraw their consent.
5. **Consider safety and well-being**: Base your information sharing decisions on considerations of the safety and well-being of the individual and others who may be affected by their actions.
6. **Necessary, proportionate, relevant, adequate, accurate, timely and secure**: Ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those individuals who need to have it, is accurate and up-to-date, is shared in a timely fashion, is shared securely, and that is arrangements in place for it to be returned or destroyed.
7. **Keep a record** of your decision and the reasons for it – whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose.

## Information to be shared

This agreement does not specify what information should be shared for the purpose because every decision to share information should be made on a case by case basis. Information that is deemed necessary, relevant and proportionate in one case may not be so in another. Each case is likely to be different.

When and how to share information involves a decision-making process which is set out in the following section.

### When and how to share information

When deciding to share information, there are a number of questions you should consider to help you decide if and when to share. If the decision is taken to share, you should consider how best to effectively share the information.

**A flowchart is attached to this Agreement (Appendix 1) which outlines these questions and the decision-making process to be followed.**

## How to share:

- Identify how much information to share
- Distinguish fact from opinion
- Ensure that you are giving the right information to the right individual
- Ensure where possible that you are sharing the information securely
- **Inform the individual that the information has been shared, if they were not aware of this, as long as this would not create or increase risk of harm**

## In all cases:

- All information sharing decisions and reasons must be recorded in line with your organisation or local procedures.
- If at any stage you are unsure about how or when to share information, you should seek advice and ensure that the outcome of the discussion is recorded.
- Direct quotes can be included and should be distinguished by quotation marks.
- If there are concerns that a child or vulnerable person is suffering or likely to suffer harm, then follow the relevant procedures without delay.

## Legal gateway to share

Each party will have a different statutory basis for holding and processing information it needs to fulfil its legal duties. The following are examples of legal gateways that may typically apply and includes those applicable across children's and adults' services:

- ✦ Written Consent
- ✦ The Children Act 2004 s10
- ✦ The Children Act 2004 s11he Children Act 1989 S47
- ✦ The Children Act 1989 s27
- ✦ Localism Act 2013 s1
- ✦ Local Government Act 1972 s111 ✦ Welfare Reform Act 2012 s131

- ✦ Care Act 2014
- ✦ Mental Capacity Act 2005
- ✦ Common law
- ✦ Data Protection Act 2018
- ✦ General Data Protection Regulation 2018
- ✦ Crime and Disorder Act 1998
- ✦ Criminal Justice Act 2003
- ✦ Modern Slavery Act 2015
- ✦ Prevent duty guidance 2019 (Counter-terrorism and Security Act 2015)
- ✦ Common law duty of confidentiality

## **Information sharing mechanism**

Information must only be shared/transmitted by secure means, kept secure, access to it limited to those that need to know, and disposed of securely. A privacy notice must be included on all forms.

<https://www.northsomersetsafeguarding.co.uk/privacy-policy>

## **Benefits of the intended sharing**

By ensuring all members of the NSSAB have the ability, confidence and trust to share information, those who have been subject to, or are likely to be subject to, harm can be identified in a timely manner, which will help protect and meet the needs of vulnerable people.

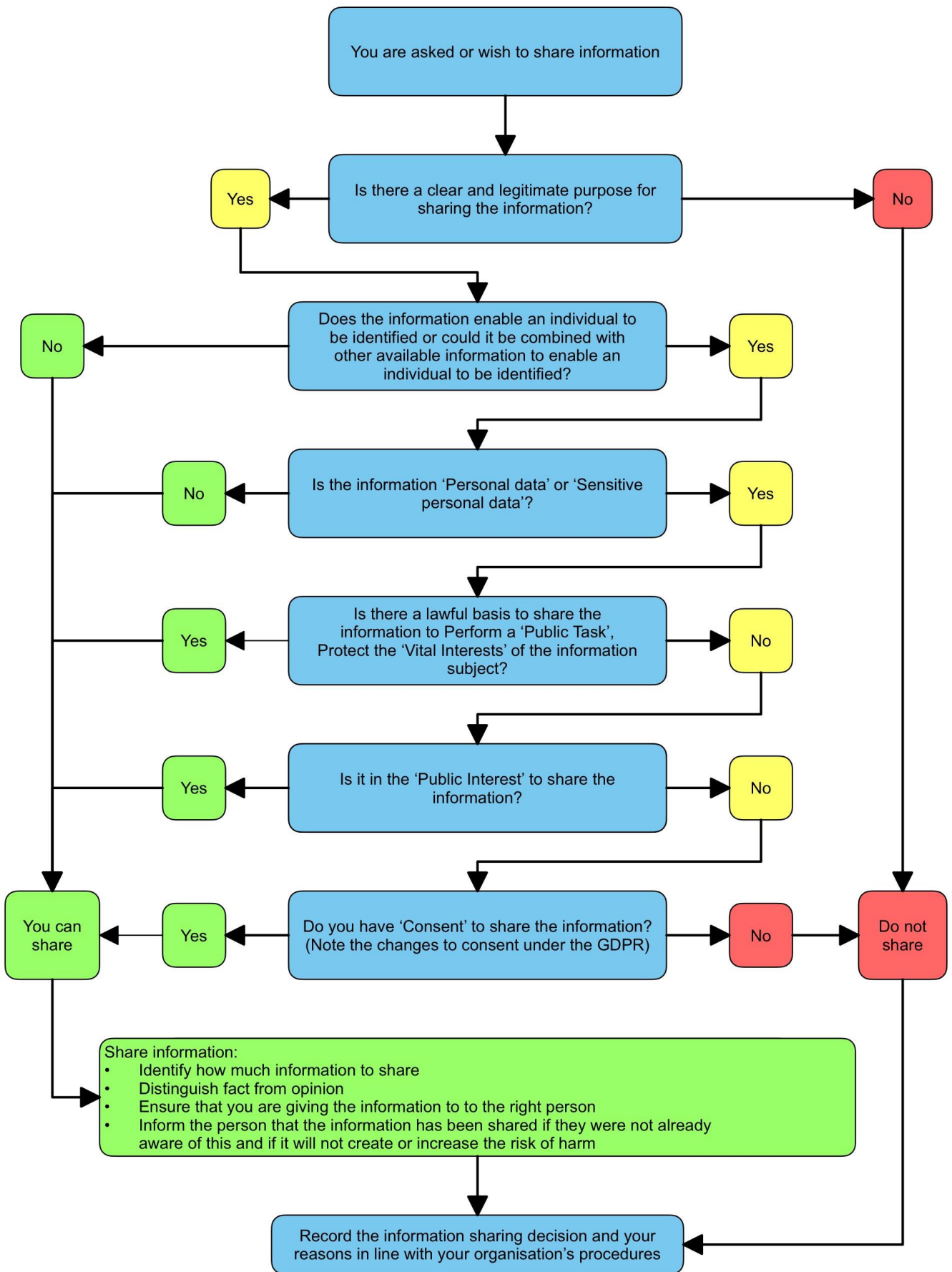
## **Retention**

The general principle to be applied is that the information should only be kept for as long as is necessary for the purpose, and in accordance with the member organisations' own retention guidance or policy.

## **Dealing with conflict or complaints**

If there is continued reluctance from one partner to share information on a safeguarding concern, the matter should be referred to NSSAB. NSSAB can then consider whether the concern warrants a request, under Clause 45 of the Care Act, for the 'supply of information'. The reluctant party would only have grounds for refusal if it would be 'incompatible with their own duties or have an adverse effect on the exercise of their functions'. In the event of a complaint relating to the disclosure of the use of individuals personal information that has been supplied under this Agreement, all parties will provide cooperation and assistance to resolve it.

Appendix 1 - **Flow chart of when and how to share information**



## **Notes:**

**1. Public tasks** refer to a) carrying out a specific task in the public interest which is laid down by law; or b) exercising official authority (for example, a public body's tasks, functions, duties or powers) which is laid down by law.

**2. Vital interests** refer to interests which are essential to protect someone's life (and is therefore limited).

### **3. Public interest:**

A balance must be struck between the public interest served by sharing information against the public interests served by maintaining confidentiality. For example, to share information in order to prevent a serious crime.